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ABSTRACT

This report presents the results of a nationwide survey of current law enforcement practices in response to the crime of forcible rape. A total of 150 prosecutor agencies were sampled. Respondents were asked to provide information regarding their agencies' general policies and specific practices in the following areas: classification methods; factors involved in a rape; factors in decision making; staffing and procedures; interactions with victims and witnesses; victim services; adjudicatory processes; and innovative activities. Each of these areas was thought to represent an important dimension of planning and practice of forcible rape prosecutions. The research revealed great variations in pretrial procedures and in filing of forcible rape charges. Only a small proportion of rape cases was actually presented for trial on that charge--the results of extensive plea bargaining. In cities where the rape prosecution rate has increased substantially in recent years, prosecutors were more likely to have better forensic resources, more female deputies, and more special training for trial deputies. A copy of the Prosecutor Questionnaire is provided, as is a list of the Prosecutor Survey Respondents. (Author/JLL)

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Forcible Rape

A National Survey of the Response by Prosecutors

Prosecutors' Volume I

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2

FORCIBLE RAPE

A National Survey of the Response by Prosecutors

Prosecutors' Volume I

This project was supported by Grant Number 75-NI-99-0015 awarded to the Battelle Memorial Institute Law and Justice Study Center by the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U. S. Department of Justice, under the Omnibus Crime Control and Safe Streets Act of 1968, as amended. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the U. S. Department of Justice.

March 1977

National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
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FOREWORD

Public attitudes toward the crime of rape are changing, due in large part to the influence of the women's right movement of the past decade. Increasingly, rape is recognized as a violent crime against the person, rather than a sexual act. This shift in attitude has brought about efforts to reform rape laws, and it has prompted many criminal justice agencies to search for more enlightened and sensitive procedures for investigating and prosecuting rape cases.

As a necessary prelude to devising specific improvements, the National Institute has sponsored research to identify current needs and problems in the criminal justice system's response to rape. This report of a national survey of prosecutors and a companion volume on a survey of police are products of the initial phase of the research. Other activities included a comprehensive review of statutory and case law in the area, interviews with victims and offenders, and an on-site study of Seattle's innovative rape prevention program.

Within their sample of 150 prosecutors' offices across the country, the researchers found great variations in pretrial procedures and in the filing of forcible rape charges. Prosecutors reported that only a small proportion of rape cases were actually presented for trial on that charge—the results of extensive plea bargaining.

As with the survey of police, the researchers found that the volume of rape cases in a jurisdiction influences the prosecutor's response. In cities where the rape rate has increased substantially in recent years, prosecutors were more likely to have better forensic resources, more female deputies, and more special training for trial deputies. Overall, however, the researchers report that prosecutors have been slower than law enforcement officials in responding to the concern for improvements in handling forcible rape cases.

The survey findings and the results of further research will be incorporated into guidelines for prosecuting rape cases.

Gerald M. Caplan
Director
National Institute of
Law Enforcement and Criminal Justice

October 1976

CONTENTS

	Page
LIST OF TABLES	vii
EXECUTIVE SUMMARY	1
Overview	4
INTRODUCTION	7
METHODOLOGY	9
Sample selection	9
Initial contact	9
Follow-up contacts	9
RESULTS	10
Respondents	10
Classification Methods	10
Minimum requirements for filing a complaint of forcible rape	10
Degrees of rape	11
Charging in cases of multiple offenses	11
Changes in rape statutes	11
Factors Involved in Rape	12
Location of offenses	13
Circumstances of initial contact between victims and offenders	13
Victim/offender relationship	13
Drug involvement	13
Use of force	14
Victim resistance	14
Victim injuries	14
Injuries when victim resists	14
Additional sexual acts	15
Multiple charges	15
Reported accomplices	15
Promptness of report	15
Reported witnesses	16
Proof of penetration	16
Evidence of premeditation	16
Victim/offender race	16
Age of victim and accused	16
Suspect identification	16
Suspect's occupation	17
Previous arrests of accused	17
Overview of the characteristics of rape offenses reported to prosecutors in large counties	17
Overview of the characteristics of rape offenses reported to prosecutors in medium and small counties	18
Comment	18
Factors in Decision Making	18
Charging-decision factors	18
Factors important for obtaining convictions	19

6

Page

Staffing and Procedures 19
Prosecutor specialization 20
Investigators 20
Cooperation with law enforcement 21
Interactions with Victims and Witnesses 21
Structure of victim interviews 22
Polygraph 22
Victim cooperation with prosecution 23
Victim handouts 24
Victim Services 24
Availability of medical/forensic services 24
Counseling services 25
Adjudicatory Processes 25
Corroboration requirements 26
Prior chastity evidence 26
Plea bargaining 27
Jury instructions 28
Sentencing 28
Obtaining convictions in jury trials 28
Sex offender registry 28
Offender programs 29
Innovations in Dealing with Rape Offenses 29
Reasons for increased reporting of rape 29
Rape studies 29
Procedural changes 30
In-service training 30
Improvements needed in dealing with rape 31
Conclusion 32

APPENDICES

A. Prosecutor Questionnaire—Forcible Rape 33
B. Prosecutor Survey Respondents 75

7

LIST OF TABLES

Table		Page
1.	Index of Forcible Rape in the United States (1965–1974)	7
2.	Survey Sample of Population of Counties Served	9
3.	Experience Prosecuting Rape Cases	10
4.	Sex of Respondents by Size of County	10
5.	Minimum Required Elements for Filing Rape Complaints	11
6.	Prosecutor Charges in Cases of Multiple Offenses	11
7.	Conditions for Filing Property Crime Only	12
8.	Victim-Oriented Legislative Reforms	12
9.	Location of Offenses	13
10.	Circumstances of Contact Between Victim and Accused Prior to Offense	13
11.	Relationship Between Victims and Accused	13
12.	Alcohol or Other Drug Involvement	14
13.	Use of Coercion Against Victims or Others	14
14.	Resistance Offered by Victims	14
15.	Injuries to Victim	14
16.	Injuries to Victim When Physical Resistance is Offered	15
17.	Sexual Acts in Addition to Vaginal Intercourse	15
18.	Multiple Charges	15
19.	Accomplices Reported	15
20.	Promptness of Report to Police	15
21.	Reported Witness to the Offense	16
22.	Physical Proof of Penetration Detected	16
23.	Evidence that Offense was Planned	16
24.	Race of Victim and Accused	16
25.	Ages of Victims and Accused	17
26.	Extent of Identification of Accused	17
27.	Occupation of the Accused	17
28.	Accused with Previous Arrest Records	17
29.	Rank Order of Important Factors in Filing Rape or Lesser Charge	18
30.	Most Important Factors Involved in Obtaining a Conviction of Forcible Rape	19
31.	Distribution of Prosecutors by Population of County	19
32.	Non-Specialized Prosecution Units by Population of County	20
33.	Staff Investigators	21
34.	Cooperation with Law Enforcement on Rape Cases	21
35.	Reasons for Good Cooperation with Law Enforcement	21
36.	Improvement Areas for Increased Cooperation	21
37.	When Intensive Interviewing of Victim Usually Takes Place	22
38.	Additional Persons Present at Victim Interview	22
39.	Polygraph Policy for Rape Victims	22
40.	Circumstances Motivating Victim Polygraph Examinations	23
41.	Victim Withdrawal of Complaint After Accused is Charged	23
42.	Major Reasons for Victim Withdrawal of Rape Complaints	23

Table		Page
43.	Existence of Written Criminal Justice Procedures for Victims/Witnesses	24
44.	Persons Accompanying Victim for Medical and Forensic Services	24
45.	Persons Who Staff Victim Counseling Services	25
46.	Relationship With Support Groups	25
47.	Who Should Provide Counseling Services	25
48.	Levels of Corroboration Required	26
49.	Admissibility of Evidence of Victim's Prior Sexual Activity	26
50.	Ways in Which Prior Sexual Conduct Evidence is Limited	26
51.	Impact of Evidence of Victim's Previous Sexual Conduct	27
52.	Use of Plea Bargaining in Rape Cases	27
53.	Reasons for Satisfaction with Plea Bargaining	27
54.	Areas in Which Plea Bargaining Could be Improved	27
55.	Reasons Given for Increases in Frequency of Reported Forcible Rape Offenses	29
56.	Changes Made by Agencies in Dealing with Rape Offenses	30
57.	Changes Agencies Plan to Make in the Near Future	30
58.	Elements of Special Training for Handling Forcible Rape Cases	31
59.	Most Important Improvements Needed for Handling the Problem of Forcible Rape	31
60.	Most Important Changes in Rape Laws Desired by Prosecutor's Office	32

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NOTE:

This volume represents the findings of one part of a comprehensive study of rape and the criminal justice system response. Additional research findings and recommendations are available (or will be available) in the following publications and reports.

PUBLICATIONS AND REPORTS CURRENTLY AVAILABLE

Forcible Rape: A National Survey of the Response by Police (Police Volume I)[1]
Rape Legislation: A Digest of Its History and Current Status[2]
Final Report of First Year Research Activities[2]
Appendices To Final Report of First Year Research Activities[2]

FUTURE PUBLICATIONS AND REPORTS[3]

Forcible Rape: Medical, Police and Legal Information for Victims
Forcible Rape: A Manual for the Patrol Officer (Police Volume II)
Forcible Rape: A Manual for the Investigator (Police Volume III)
Forcible Rape: Police Administrative and Policy Issues (Police Volume IV)
Forcible Rape: Prosecutor Manual for Filing and Trial (Prosecutor Volume II)
Forcible Rape: Prosecution Administrative and Policy Issues (Prosecutor Volume III)
Forcible Rape: An Analysis of Legal Issues
Final Report of Second Year Research Activities
Appendices to Final Report of Second Year Research Activities

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[1] Copies may be purchased from the Government Printing Office.
[2] Microfiche and loan copies are available from the National Criminal Justice Reference Service.
[3] Reports will be available in late 1977.

ACKNOWLEDGMENTS

The successful undertaking of a national survey of prosecutors in the United States on a subject as topical and contentious as that of their response to the crime of forcible rape presented a substantial challenge to the team of researchers involved in this project. The challenge was one which many knowledgeable persons in the field of prosecution believed at the outset was impossible of achievement. These persons claimed, among other things, that the response rate to the survey would be extremely low, the data would be unreliable, and the ultimate product of little assistance to those in the criminal justice system.

Whether or not the challenge has been met must be decided, ultimately, by the readers of this report. However, the research team is confident that the data gathered in this document reflect the major contemporary concerns and responses of prosecutor agencies in the United States to forcible rape. The survey response rate from these agencies was high (66%) despite the use of a detailed and time-consuming questionnaire. Most agencies selected in the sample willingly cooperated with the research team. To the 150 agencies, and the individuals within them, who returned completed questionnaires the entire research team expresses its warm gratitude and thanks. We hope that the ultimate product will be of assistance to you and the other prosecutor agencies around the nation who did not participate directly in the survey.

The conduct of the survey and the preparation of this report was very much a team effort among the research staff at the Battelle Law and Justice Study Center and the National Legal Data Center. Philip Cohen, Ronald Sabo, Donna Schram and Cy Ulberg shared a major portion of the task of designing the survey including the questionnaire, while Larry David and Cy Ulberg were responsible for analyzing the results. Glen Dorfman spent many days on the phone personally contacting agencies about the survey and ensuring their cooperation. The writing of this report was largely undertaken by Larry David, Donna Schram and Cy Ulberg with the assistance of Glen Dorfman and Ron Sabo. For the numerous and extremely helpful editorial and allied comments on earlier drafts of the report our thanks go to all our colleagues, but particularly Don Jones. To Barbara Andersen and Margaret Wilderman, who typed and compiled these drafts, and Claudine Trafford, the final product, we also express our gratitude for their patience and skill. We also thank Faith Fogarty who has coped so ably with the task of arranging for the printing and dissemination of this report.

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EXECUTIVE SUMMARY

The National Institute of Law Enforcement and Criminal Justice of the Law Enforcement Assistance Administration awarded a grant to Battelle Law and Justice Study Center to conduct research related to the crime of forcible rape. A major objective of the research effort was to assemble, describe and assess current law enforcement practices in response to the crime of forcible rape. As part of this work, nationwide surveys were conducted of police and of prosecutive agencies. The report which follows details the findings of the prosecutor survey.

A total of 150 prosecutor agencies were sampled. (See pp. 2–3)[1] Since the geographical area in which the vast majority of these offices exercised their jurisdiction coincided with county boundaries, the sample was divided into the following population categories:

Category I—agencies serving counties with populations in excess of 1,000,000;

Category II—agencies serving counties with populations of 100,000–1,000,000; and

Category III—agencies serving counties with populations 25,000–100,000

Sample selection was stratified according to county population. Since a small number of very large counties was responsible for the majority of rape prosecutions, the design of the research intentionally oversampled from the available counties with exceptionally large populations. Completed surveys were received from 15 of these "large" counties in Category I, 101 "medium" counties in Category II, and 34 "small" counties in Category III.

Agencies were asked to assign deputies who had considerable experience in dealing with forcible rape cases to complete the questionnaire. Although the prosecutive experience of respondents ranged from zero to 30 years, the average length of experience was 5.9 years.

[1]Numbers in parentheses refer to those pages in the report to which the reader can refer for more detailed discussion of the points mentioned in the summary.

Respondents were asked to provide information regarding their agencies' general policies and specific practices in the following areas:

Classification methods—legal elements considered necessary or important for filing, charging and trying a reported crime as forcible rape;

Factors involved in rape—characteristics and circumstances frequently associated with rape cases within the respondents' jurisdictions;

Factors in decision making—processing criteria important in decisions to charge forcible rape and proceed to trial;

Staffing and procedures—size, composition and division of labor among responding agencies;

Interactions with victims and witnesses— agency procedures for obtaining information from victims/witnesses;

Victim services—agency awareness, utilization and judgment of the effectiveness of extra-legal services available to rape victims;

Adjudicatory processes—appraisals of value of corroborative evidence, cautionary jury instructions, usefulness of plea negotiations, and prior chastity evidence; and

Innovative activities—new and innovative policies or practices either instituted or planned in prosecutor agencies.

Each of these areas was thought to represent an important dimension of planning and practice of forcible rape prosecutions. As a group, these areas should provide a comprehensive view of rape prosecution policies throughout the United States.

The *classification methods* used by prosecutor agencies were constrained by legislative requirements and by the operational realities of individual offices. In many instances, however, the methods adopted appeared to have been developed on the basis *ad hoc* evaluations of each case. Guidelines for the filing of rape charges, for example, were available in only eight percent of the offices. Most respondents identified four specific elements which must be present in cases presented to them before

their agencies would file a rape complaint. These elements consisted of penetration (97%), lack of victim consent (82%), threat of force (77%), and female sex of the victim (45%). (See page 4.)

Two or more degrees of forcible rape were available in 34 percent of the counties surveyed. The statutory provision for degrees of rape was hypothesized to increase the flexibility of charging policies and thereby increase the number of rape cases filed. However, an assessment of this relationship was not possible because of the limitations inherent in survey data. (See pp. 4–6.)

Changes or proposed changes in rape laws have occurred in the majority of states during the last five years. Victim-oriented reforms were identified as the most frequently enacted or contemplated legislative modifications, particularly limitations on character testimony regarding the previous sexual behavior of victims. Other less frequently noted reforms included the development of a system of degrees of rape, redefinition of the acts which constituted "sexual assault," and modifications in the statutory sentencing provisions. (See pp. 7–8.)

Prosecutor respondents were asked to provide statistics concerning the *factors* or circumstances associated with rape cases presented to their agencies. The purpose of this section was to provide more precise statistical information on the kinds of events which preceded rape offenses; relationships and characteristics of victims and offenders; victim injury and resistance; offender *modus operandi;* and evidentiary items available. One important general finding was that patterns of forcible rape observed in cases presented to prosecutors did not differ greatly among large, medium, and small counties. For example, cases presented for prosecution usually involved a sexual assault by an armed stranger upon a lone victim. The victim was likely to be forced to perform other sexual acts in addition to vaginal intercourse. She was probably injured during the assault and, if she resisted, the injury was likely to be more severe. Eyewitnesses and corroborating witnesses were rare. The reader is referred to pp. 8–14 for detailed discussions of the 27 factors examined in the survey.

Criteria used in making decisions at different stages in the processing of rape complaints determines whether the report of an event moves forward in the criminal justice system. Obviously, this chain begins at the level of law enforcement with decisions to pursue follow-up investigation, arrest a suspect, and present a case for prosecution. At this point, the prosecutor must decide to file the case and evaluate the probability of a conviction should the case proceed to trial. When respondents were asked to identify those factors considered most important to the decision to file rape charges, more than one half reported the following as most influential: (1) use of physical force, (2) proof of penetration, (3) promptness of reporting, (4) extent of suspect identification, (5) victim injury, (6) circumstances of initial contact, (7) use of weapon, and (8) victim resistance. (See pp. 14–15.)

While many of the same factors important for the decision to file a rape charge were also reported as important factors in obtaining convictions, some interesting re-prioritizing seemed to occur. Both injury to victim and resistance offered by victim were considered *less* important in the decision to file than in the probability of obtaining a conviction. In contrast, the extent of suspect identification, circumstances of initial contact, and the victim's arrest history were considered *more* important in the decision to file than in obtaining a conviction. (See pp. 14–15.)

It was expected that the quantity and quality of rape prosecutions would be strongly influenced by the types of *resources* available or devoted to cases of forcible sexual assault. Among all offices surveyed, a total of 16 percent had a special deputy or group of deputies who specialized in the prosecution of rape cases. However, only one office reported that the prosecution specialists handled rape cases exclusively and were not assigned to other types of felony cases. The vast majority of specialists, therefore, were assigned to general criminal matters as well as to rape cases. (See pp. 15–16.)

Regardless of the level of specialization of the prosecutive unit, female deputies were often included among the personnel. Of the 33 counties with sex offense units, 15 had at least one female prosecutor. (See page 20.)

The majority of prosecutor agencies (80%) had staff investigators available to provide assistance in case preparation. However, less than 10 percent of the offices had staff who were specialized in the investigation of rape offenses. (See page 20.)

While most prosecutor respondents reported an excellent relationship with police agencies within their jurisdiction, one third of the prosecutor offices surveyed indicated that the relationship was either merely acceptable or that it needed improvement.

The area identified as requiring the most improvement was an increased understanding of rape issues in law enforcement agencies (70%). The second most frequently noted means of improving the police/prosecutor relationship was the establishment of specialized rape units in law enforcement agencies. (See page 21.)

Since police and prosecutor insensitivity to victims has been suggested as a contributing factor to the withdrawal of many rape complaints, respondents were specifically asked about their *interactions with rape victims*. Most respondents (95%) had no special guidelines for use in interviewing victims, despite the fact that 53 percent of the offices required that each rape victim submit to three or more interview sessions with prosecutors. (See page 21.)

Victim "interviews" sometimes took the form of polygraph examinations intended to test the credibility of the complaining witness. Aside from the legal issues involved, many people have objected to this procedure as demeaning to the victim. When respondents were asked whether it was office policy to request polygraph examinations, the findings indicated that this was largely a discretionary matter. The most frequently cited reasons for polygraph requests included the suspicion of complaint deception (47%) and lack of corroborating evidence or witnesses (13%). (See page 22.)

A variety of factors influence a victim's decision to withdraw a complaint once it reaches the level of prosecution. When respondents were asked to appraise the reasons for pretrial withdrawals, 52 percent stated that victim fear or embarrassment was the predominant cause. This response included fear of the defendant, fear of publicity, or simply the added trauma of further investigation or trial testimony. (See page 23.)

Only 7 percent of the agencies surveyed reported the use of written overviews of the system which would prepare victims and witnesses for their involvement in criminal procedures. Only *one* office had written materials specifically designed for victims and witnesses of rape or other sexual crimes. (See page 24.)

Much of the attention devoted to the problem of rape concerns the trauma experienced by victims as a consequence of the offense and as a result of their interaction with criminal justice agencies. This concern has given rise to a variety of *victim services*, including rape crisis centers, special hospital programs, and advocacy services. Special medical and forensic services were available in 60 percent of the responding counties and were planned in an additional 12 percent. (See page 24.) Victim counseling services were provided in 58 percent of the prosecutor jurisdictions. With few exceptions, the relationship between these support groups and prosecutors was judged to be "very cooperative." (See page 25.)

The prosecutor often has considerable influence over the various factors involved in the *adjudication of rape complaints*. In other instances, the prosecutor's influence is constrained by state law or judicial mandate. Corroboration requirements, for example, varied considerably from one state to another. The survey results indicated that corroboration was most often required to establish lack of consent, penetration, force/coercion, but not the issue of the identity of the accused. For all elements of the crime examined in the survey, nearly one half of the prosecutor respondents indicated that corroboration was a necessity either because it was required by legislative or judicial mandate or indispensable to prove beyond a reasonable doubt that the defendant was guilty. (See page 26.)

The admissibility of prior chastity evidence concerning the victim is one of the most controversial aspects of forcible rape legislation. Such evidence was admissible in 85 percent of the jurisdictions surveyed. Although such evidence was judged to have little impact on verdicts in bench trials, prosecutor respondents felt that admission of information on the prior chastity of victims greatly influenced the outcome of jury deliberations. (See page 26.)

Respondents indicated frequent use of the plea bargain in cases which involved rape charges. Plea negotiations were reported to occur in approximately one half of all rape cases in the jurisdictions surveyed. Most respondents (77%) were satisfied with plea bargaining the way it was and felt it was a necessary dynamic of the criminal justice system. The remaining respondents suggested that plea bargaining could be improved (19%) or that it should be eliminated altogether (4%). (See page 27.)

Some state rape statutes require that juries be told that the charge of rape is easily made and difficult to defend against. Therefore, juries are instructed to view the testimony of the victim with caution. At the time of the survey, only three states required

this instruction, but no state specifically prohibited its use. In other states, the instruction was either required by judicial mandate or discretionary with the court. In those jurisdictions where cautionary jury instructions were utilized, 83 percent of the respondents felt that it was unduly prejudicial and could adversely affect the prosecution's case. (See page 27.)

In general, prosecutor respondents indicated that sentences meted out to convicted rapists were appropriate (73%). Among those who felt that average sentences were inappropriate, 55 percent thought they were too lenient and 45 percent believed that the use of probation or parole was too excessive. No respondent felt that average sentences imposed were too severe. (See page 28.)

Almost unanimous agreement was reached when respondents were asked to identify the major difficulty in obtaining jury convictions for forcible rape. Nearly every respondent (92%) indicated that credibility of the victim was the most important element in jury convictions. Evidentiary issues (corroboration requirements) and severity of penalties were also identified as major obstacles. (See page 28.)

The final section of the survey concerned *present or planned prosecutor innovations* in the area of rape. To better understand motivations for changing procedures, respondents were asked if rape offenses were an increasing problem in their jurisdictions. Over one half (56%) reported an increase in reported rapes in the last few years. Most respondents attributed the increase to two separate factors: (1) a general societal increase in all forms of violence; and (2) more reporting because of a change in public attitudes toward rape. (See page 29.)

Twenty-six percent of the prosecutor respondents indicated that new procedures for dealing with rape offenses had been instituted in their offices in the last three years. The most frequent innovations mentioned were the use of better forensic techniques, more frequent use of female deputies, and special training for trial deputies. An additional one quarter of the respondents indicated plans for future changes in handling rape cases. The most frequent future plans involved specialization in the form of training or in the development of special rape units within the respective offices. (See page 30.)

The three major improvements seen as necessary by prosecutor respondents in dealing with rape were, as follows: (1) more public education; (2) improved police investigative techniques; and (3) better police training. Only 10 percent of the respondents indicated that changes in prosecution policies were important improvements. (See page 31.)

Overview

Respondents to the nationwide prosecutor survey provided an extensive view of current policy and practice in dealing with forcible rape. In addition, this provided intriguing insights into the nature of the crime itself, the nature of available extra-legal services, and the need for changes both within the criminal justice system and in the larger society as well.

The experience of prosecutor agencies in the crime of forcible rape could be summarized as follows: Most agencies confront a rape event involving a victim and a suspect who were total strangers. The event was likely to have occurred in a motor vehicle or out-of-doors. The use of physical force and/or the presence of a weapon (firearm) were probable. The victim was likely to have resisted her attacker and received physical injury. The more her resistance, the more serious the injury. More than one form of sexual penetration occurred. Although she did not know her assailant beforehand, she will be able to identify him if he is seen again. The alleged assailant was an individual known by police since he was involved in previous crimes or sex offenses. The victim reported the event directly to the police within one hour of its occurrence.

In most cases, the filing deputy who received the complaint was not specialized and had no on-the-job training in the area of rape offenses. The filing deputy looked for three main factors prior to filing a rape charge: (1) proof of penetration provided by a medical facility; (2) evidence of lack of consent; and (3) threat or use of force. If any of these factors were not present, the agency was not likely to charge a suspect with forcible rape.

From the filing deputy, the case passed to a trial deputy who was specialized in rape cases. The victim was likely to be interviewed two or more times and required to submit to a polygraph examination. If the case proceeded, it was likely to be plea bargained to a lesser charge in exchange for a guilty plea.

Prosecutor agencies in jurisdictions where rape reports have increased have instituted, or plan to institute, new procedures or policies regarding rape

cases. They were likely to have better forensic resources, *more* female deputies, and more special training for trial deputies. However, they also saw the need for further change. Within the system, prosecutors wanted more training on rape-related issues, more special rape units within prosecutive agencies, and more female investigators attached to their offices.

INTRODUCTION

The law enforcement and criminal justice agencies have the dual responsibility of upholding the laws of the society and providing justice for victims and offenders. These agencies admittedly have difficulties fulfilling these responsibilities in cases of forcible rape, but are unclear as to the proper direction to take in resolving their difficulties.[2]

This statement indicates the source of the current responsibilities and dilemmas confronting criminal justice agencies, including prosecutor offices, in the area of forcible rape. The importance of these responsibilities, and dilemmas, is confirmed by the high level of community concern about the crime of forcible rape. Public concern is based in large part upon the dramatic increase in the reported incidence of forcible rape in the United States during the past decade. As Table 1 indicates, rates of forcible rape have more than doubled in this country in the decade between 1965 and 1974. The increase has become even more rapid after 1967, and in the early 1970's, the rise in the rate of reported rape outstripped that for all other major categories of violent crime.

Confronted by a situation of such urgency, law enforcement and other criminal justice agencies in many parts of the United States are now seeking ways of strengthening their capabilities to deal with rape offenses. Innovative procedures have been designed to facilitate apprehension and conviction of rapists and reduce the incidence of rape. Central to many of these efforts is the desire to ameliorate the plight of the rape victim and to enhance the victim's cooperation with the criminal justice system. Despite recent advances, a number of major and related dilemmas remain in regard to forcible rape. Changes in criminal justice procedures have been made on an *ad hoc* basis. Agencies in different parts of the country experiment with fresh approaches to the crime of forcible rape without being aware of what has been attempted elsewhere. Development of model procedures for law enforcement and other criminal justice agencies has been minimal in this area. No systematic attempt has been made on a national level to identify the nature or dimension of the problems and needs of the criminal justice system in dealing with this crime. Basic research in the area of forcible rape has yet to be shown to have had a significant impact upon the development of strategies to assist in the task of rape prevention, whether from the perspective of the victim, offender, police, prosecution or courts.

To help address these conditions, the National Institute of Law Enforcement and Criminal Justice provided funds in 1974 for an extensive investigation of the means by which the criminal justice system handles forcible rape offenses. The ultimate purpose of the project is to develop practical guidelines for police and prosecutors which will enhance the effectiveness of rape investigations, prosecutions and adjudications throughout the United States.

This work has been undertaken by the Battelle

TABLE 1

Index of Forcible Rape in the United States (1965–1974)[a]

Year	Number	Rate Per 100,000 Inhabitants
1965	23,330	12.1
1966	25,730	13.2
1967	27,530	13.9
1968	31,560	15.8
1969	37,050	18.4
1970	37,860	18.6
1971	42,120	20.4
1972	46,690	22.4
1973	51,230	24.4
1974	55,210	26.1
Change in Rate of Reported Rape (1965–1974 = 115.7%)		

[a] Department of Justice, *Uniform Crime Reports for The United States, 1974*. (Washington, D.C.: U.S. Government Printing Office, 1975), excerpted from Table 2—Index of Crimes, United States, 1960–1974, p. 55.

[2] Cynthia S. Jackson, *Forcible Rape: Consideration of the Basic Issues*, National Institute of Law Enforcement and Criminal Justice: Research Operations Division, 1973, p. 24.

Law and Justice Study Center in Seattle, Washington in conjunction with the National Legal Data Center in Thousand Oaks, California. At the end of the first year of a contemplated two-year effort, a number of research activities have been completed. The findings presented in this report reflect results obtained from a national survey designed to determine the needs of prosecutors in the area of forcible rape and to identify procedures in current use. A similar national survey has been completed of police agencies. Findings of that work are detailed in a separate report entitled, *Forcible Rape: A Nationwide Survey of the Police Response to This Crime*.

To facilitate the gathering of systematic data from prosecutor offices surveyed, use was made of a specially designed questionnaire covering a broad range of issues. The questionnaire was designed jointly by the National Legal Data Center and the Battelle Law and Justice Study Center. The initial version of the survey instrument was pre-tested in a small set of prosecutors' offices and was found to be too time-consuming. Consequently, the questionnaire was simplified and shortened to accommodate the criticisms of the respondents in the pre-test. A copy of the final version of the questionnaire is reproduced in Appendix A.

The first section of the survey requested information regarding the procedures and considerations involved in the classification of cases as forcible rape within each prosecutor's office. To the extent that office policies and/or diverse statutory requirements greatly influence case classification, major differences might be observed in the means by which rape complaints are handled.

It was expected that the criminal justice response to forcible rape could be improved through a more comprehensive understanding of the crime itself. Thus, the circumstances or factors associated with the rape cases presented to prosecutors were also examined. Among the factors investigated were the means of initial contact between victims and assailants, locations of offenses, relationships between victims and offenders, methods of force or threat, extent of victim injury, and types of victim resistance. In addition, the survey also sought to determine those factors which were important in the prosecutor's decision to charge for rape or for a lesser charge.

The prosecutorial procedures for handling rape complaints in individual offices were also explored. Several procedures were simply mechanical, i.e., office structure for processing cases, liaison practices with police agencies, etc. Other procedures examined were more related to case preparation and presentation, i.e., victim/witness interview techniques, special evidentiary parameters which influence case development, and actual trial procedures.

The concluding section of the survey addressed innovations that have been adopted in the handling of forcible rape cases in individual offices. Such innovations included rape-related research, procedural modifications, and special training for filing or trial deputies.

The discussion of the prosecutor survey results which follows represents the first national effort to examine the procedures and problems encountered by persons experienced in the prosecution of rape offenses. The results should provide valuable information to all criminal justice policymakers concerned with implementing efficient and effective methods to deal with forcible sexual assaults.

The report is divided into two major parts. The first portion discusses the methodology used to select the sample and the techniques employed to solicit data. The results and findings of this research appear in the second part of the report. Throughout this latter section, emphasis is placed on descriptions of the responses of prosecutors to the problem of rape and, where possible, analyses of the effectiveness of the various methods utilized.

METHODOLOGY

The research methodology adopted for the survey was designed to obtain responses from the broadest possible representation of prosecutor's offices which dealt with forcible rape cases. Offices were selected from all parts of the country and represented counties with populations of 25,000 to several million people. The offices finally selected for inclusion in the survey were responsible for more than one half of all rape prosecutions in the United States during 1974.

Sample selection. A total of 300 prosecutor offices was selected from a list of United States counties in the *Uniform Crime Reports* for 1973. Two hundred of these offices comprised the initial target sample; the remaining 100 offices were to be used as potential replacements.

Actual sample selection was stratified according to county population. Since a small number of very large counties was responsible for the majority of all rape prosecutions, the design of the research intentionally overrepresented highly populated prosecutor jurisdictions. Thus, all 22 of the counties with populations over one million people were selected for the inital target sample. An additional group of 178 counties was randomly selected from all counties with populations which ranged from 100,000 to one million (128 target counties and 50 replacements). Fifty counties each were randomly selected from all counties with populations between 50,000–100,000 and between 25,000–50,000 (25 target counties and 25 replacements each).

Initial contact. A member of the prosecutor's staff in each of the target counties was contacted by telephone to solicit cooperation and participation in the study. If, after three attempts, no contact with a person in authority could be established, an alternate county of equivalent size was randomly selected from the appropriate list of replacements.

When successful contact was made with an office, the name, address and identifying information of the person to receive the questionnaire was confirmed. After receipt of the questionnaire, six prosecutor offices withdrew the commitment to participate. Replacement offices were then selected and the process was repeated. In this way, 228 contacts were accomplished or attempted and commitments to participate were obtained from 199 offices. Responses were actually received from the 150 prosecutors' offices listed in Appendix B. (See Table 2 for a summary of the number of potential and actual survey respondents by size of county served.)

TABLE 2

Survey Sample by Population of County Served

Population	Target Sample	Survey Sent	Survey Returned
1,000,000 +	22	19	15
100,000–1,000,000	128	112	87
(Replacements)		17	14
50,000–100,000	25	18	12
(Replacements)		14	9
25,000–50,000	25	13	8
(Replacements)		6	5
Total	200	199	150

Follow-up contacts. If no questionnaire had been received three weeks after mailing, a telephone follow-up procedure was initiated. Generally, these follow-up phone calls were repeated at one week intervals to those offices which failed to return a completed questionnaire.

As the final date for receipt of the responses approached, an inadequate number of questionnaires had been returned. As a consequence, a program of sending Western Untion "mailgrams" was initiated. The message used in the "mailgrams" stated the following: "Urgently need return of Rape Questionnaire, please phone collect (805) 492-2453." After each "mailgram," there was generally an immediate response. In most instances, the questionnaire was sent immediately or a phone call/letter was received which explained that the questionnaire would follow in a few days. The "mailgrams," in combination with the methods previously described, resulted in the return of 150 questionnaires. This represented a return rate of 66 percent of all offices contacted and 75 percent of those offices to which questionnaires were sent.

RESULTS

Respondents

In order to maximize the accuracy of the survey responses, every effort was made to ensure that the persons completing the questionnaire were experienced and knowledgeable in the prosecution of forcible rapes. In most instances, this objective was met. Attorneys were responsible for completion of 129 questionnaires and partial completion of an additional 16 questionnaires. Thus, 145 attorneys responded to 150 survey forms returned.

Table 3 shows the experience of respondents in handling rape prosecutions. Respondent experience ranged from zero to 30 years with a mean of 5.9 years. It should be noted that almost sixty percent of the respondents had less than five years of experience handling rape cases.

TABLE 3

Experience Prosecuting Rape Cases

Years of Experience	Respondents	
	Number	Percent
Less Than 1 Year	2	1.3%
1–5 Years	84	56.1%
6–10 Years	20	13.3%
11–15 Years	14	9.3%
16–20 Years	4	2.7%
More Than 21 Years	5	3.3%
No Response	21	14.0%

TABLE 4

Sex of Respondents by Size of County

County Population*	Respondents	
	Percent Male	Percent Female
Large*	64%	36%
Medium*	91%	9%
Small*	97%	3%

* Note: Large counties represent those with populations in excess of 1,000,000 persons; medium counties represent those with 100,000–1,000,000 persons; small counties represent the combined results from counties with populations ranging from 25,000 to 100,000 persons. These county size categories will be continued throughout the remainder of the report.

Ninety percent of all respondents were male. The proportion of male to female respondents, however, was influenced by the size of the counties from which questionnaires were solicited. According to Table 4, females acted as respondents much more frequently in large counties than in medium or small counties.

Classification Methods

In order to assess and to compare different prosecutorial procedures used in forcible rape cases, it is important to understand how the crime is classified. Respondents were asked about the existence of written guidelines for filing a charge of forcible rape. Among the 150 responding agencies, written procedures for filing existed in only eight percent of the offices. Thus, no formal guidelines were present in 92 percent of the prosecutor agencies sampled.

Minimum requirements for filing a complaint of forcible rape. Table 5 shows the minimum elements identified by respondents which must be present before a complaint can be filed as forcible rape within their respective jurisdictions. More than three quarters of all respondents identified those elements as: (1) penetration, (2) lack of victim consent, (3) threat of force, and (4) female sex of victim. However, these findings were difficult to interpret, since some respondents appeared to misunderstand the question. For instance, some respondents checked both "threat of force" and "physical force" as minimum requirements. It is unlikely that both elements were required to file a complaint. In addition, it was also difficult to determine whether the responses to such items as "evidence of resistance" or "presence of a weapon" were actual statutory requirements or the result of office policies and experience. These elements might have been considered important, rather than necessary, to the filing decision.

TABLE 5

Minimum Required Elements for Filing Rape Complaints

Elements Which Must Be Present	Responses	
	Number	Percent
Penetration	146	97.3%
Lack of Consent	123	82.0%
Threat of Force	116	77.3%
Female Victim	113	75.3%
Physical Force	57	38.0%
Evidence of Resistance	37	24.7%
Victim Not Wife or Spouse	23	15.3%
Presence of Weapon	9	6.0%
Victim Incapacitated	6	4.0%
Forcible Compulsion, Not a Voluntary Social Companion	3	2.0%
Other	4	2.7%

Degrees of rape. When respondents were asked if there were more than one degree of rape that could be charged in their jurisdictions, 37 percent of the sample replied affirmatively. However, the presence of statutory provisions for degrees of forcible rape was related to the size of the populations served by the various prosecutors. More than one degree of rape was available in 53 percent of all large and 40 percent of all medium-size counties. Only 24 percent of the respondents from small counties indicated that their state laws provided for more than one degree of forcible rape. It appeared that these differences resulted from the fact that the smaller sample counties tended to be drawn from states with more rural populations. The more populous, urban states from which larger counties were drawn tended to be those in which new rape legislation had been enacted that included provisions for more than one degree of rape.[2]

To the extent that the existence of more than one degree of forcible rape increases the flexibility of charging policies, it might be expected that more rape cases would be filed in counties where this option was available. An assessment of the effect of multiple degrees of rape on charging policies was not possible from the survey results. Counties with and without such provisions differed so greatly on other characteristics that comparisons were inappropriate. To accurately assess the influence of multiple degrees of rape on charging practices, longitudinal studies should be conducted within counties where state rape legislation has or is currently undergoing such change.

Charging in cases of multiple offenses. In a case where evidence supports prosecution of a rape offense *and* a property crime, the prosecutor may charge for the rape only, the property crime only, or both the rape and the property crime. When respondents were asked to indicate the percentage of such cases that their offices filed with single or multiple charges, a wide range of responses was obtained. From Table 6, it can be seen that almost 60 percent of the respondents indicated that their offices filed on both charges in more than 80 percent of such cases. The filing of multiple charges would clearly be to the prosecutor's advantage, particularly in those cases in which the possibility of plea bargaining arose.

TABLE 6

Prosecutor Charges in Cases of Multiple Offenses

Percentage of Cases Filed	% Rape Charge Only	% Property Charge Only	% Rape and Property Charge
Never Filed	57%	65%	15%
1–20%	20%	26%	7%
21–40%	3%	5%	3%
41–60%	7%	3%	7%
61–80%	8%	2%	11%
81–99%	2%	0%	22%
Always Filed	5%	0%	37%

The most frequently identified condition under which only a property crime would be charged involved cases in which there was weak evidence of the rape offense (see Table 7). Other reasons cited for single charges ranged from victim reluctance to testify in court to lack of victim injury during the sexual assault.

Changes in rape statutes. Respondents were asked whether their state rape statutes had recently undergone changes or were likely to undergo changes in the near future. Fifty-seven percent of the respondents answered affirmatively. The types of changes were combined into four categories:

(1) victim-oriented reform;

[2] It should be noted that some respondents from small counties appeared to be unfamiliar with the rape statutes in their respective states, i.e., were not aware of provisions for degrees of rape. This point will be discussed in more detail in other sections of this report.

(2) system of degrees of forcible rape;
(3) redefinition of sexual assault; and
(4) sentencing.

TABLE 7

Conditions for Filing Property Crime Only

Description	Responses	
	Number	Percent
Weak Evidence for Rape Case	53	66.1%
Victim Reluctant to Testify	10	12.5%
Prior History with Defendant	4	5.0%
Property Crime Penalty Greater Than Rape	2	2.5%
Evidence Available for Property Crime	2	2.5%
Victim Refuses Polygraph	2	2.5%
Property Offense Used to Plea Bargain	2	2.5%
Investigation Error	2	2.5%
Slow Reporting	1	1.3%
No Injury to Victim and Strong Property Case	1	1.3%
"Victim is Hooker"	1	1.3%

Victim-oriented reforms were identified as the most frequently enacted or contemplated legislative modifications (see Table 8 for details). The primary reform involved the limitation of character testimony regarding the previous sexual behavior of the victim. Other changes included elimination of the requirements for cautionary jury instruction and corroboration.

TABLE 8

Victim-Oriented Legislative Reforms

Changes/Contemplated Changes	Frequency
Eliminate Past Sexual History of Victims	34
Eliminate Cautionary Jury Instruction	6
Eliminate Corroboration Requirement	4
Eliminate Requirement of Evidence of Resistance	2

Twelve respondents indicated that a system of degrees of forcible rape had been enacted or contemplated in their respective states. Eleven of them indicated that degrees of rape were differentiated on the basis of various situational characteristics associated with the offense. The remaining respondent indicated that degrees of rape were based upon the amount of force employed.

Seventeen respondents indicated that the definition of "sexual assault" was to be redefined. The new definitions would combine all sexual assaults into one category, regardless of the type of assault or gender of the victim. Changes in the "sentencing" category included three instances in which sentences would become less severe and two in which they would become more severe. The latter two included provisions that would make rape non-probational and establish mandatory sentences for rapists.

Thus, considerable activity was observed in the area of new or proposed rape legislation. Although the impact of this new legislation has not been evaluated, an extensive discussion of these changes can be found in "The Legislative Digest" prepared by the National Legal Data Center in conjunction with this project.

Factors Involved in Rape

Criminal justice personnel, including prosecutors, frequently classify individual rape offenses on the basis of a number of criteria, including *modus operandi*, location of offense, characteristics of the victim and offender, and evidentiary items available. Prosecutors were asked to provide data concerning the characteristics of cases that come to their attention. The specific items included on the questionnaire were selected to be of wide interest to prosecutors in the development of strategies for the prosecution of rape cases.

Whenever possible, respondents were asked to provide actual numbers of offenses in each category examined. When precise data did not exist and/or could not be obtained, respondents were asked to estimate the percentages of offenses which were thought to fall into each category. For ease of presentation of the data, actual and estimated responses were pooled in the final results. Several notes of caution should be observed in the interpretation of these results. First, relatively few prosecutors' offices maintain data retrieval systems capable of generating exact figures on the factors discussed below. The "estimates" provided by most respondents may not accurately represent the characteristics of rape cases presented to their respective offices. Secondly, these percentages represent national averages. They may vary considerably from the situation which exists in any particular jurisdiction. Finally, it must be emphasized that the statistics concern rape cases *presented to the prosecutor, not*

those initially reported to the police. A number of factors are closely related to the probability that cases reported initially to the police will eventually be presented to the prosecutor.

The national survey of police agencies also included a section on the characteristics of forcible rape cases reported to them. Since suspects were more likely to be identified and prosecuted in some "types" of cases than others, it was anticipated that the characteristics associated with rape offenses might differ as cases are filtered from police to prosecutors. Thus, prosecutors could be presented with a particular sub-set of the offenses reported to the police. When important differences were noted, they are discussed in the appropriate factor section.

Location of offenses. In the order of the frequency with which they were identified, the majority of rapes presented the prosecutor occurred in (1) motor vehicles, (2) outdoor locations, or (3) the residence of the victim. This finding differs from the percentages of cases reported to police in that law enforcement agencies indicated that a higher percentage of cases occurred in the victim's residence than in motor vehicles or outdoor locations. Presumably, occurrences of rape in the residence of the victim raises the issue of consent and makes it less likely that the case reported to the police will lead to prosecution. (See Table 9.)

TABLE 9

Location of Offenses

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
Outdoors	27%	26%	29%
Motor Vehicles	29%	31%	38%
Victim's Residence	23%	28%	21%
Residence of Accused	9%	7%	8%
Other	13%	9%	5%

Circumstances of initial contact between victims and offenders. Circumstances of initial contact were divided into three categories: (1) hitchhiking (implied victim consent); (2) with victim's agreement other than hitchhiking; and (3) not with victim's agreement. The respondents indicated that the majority of rape cases presented to prosecutors involved hitchhiking or some other form of victim agreement to the initial contact (see Table 10). These findings were different from those reported by the police. Most rape offenses reported to police did not involve the victim's agreement to the initial contact. It would appear that victims who agreed to contact with the suspect were better able to identify him, thus, making an arrest more likely.

TABLE 10

Circumstances of Contact Between Victim and Accused Prior to Offense

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
Hitchhiking	20%	19%	17%
With Victim's Agreement Other Than Hitchhiking	34%	39%	45%
Not With Victim's Agreement	46%	42%	39%

Victim/offender relationship. Table 11 shows that victims and offenders were strangers in slightly more than half of the cases that were presented to prosecutors. This finding was similar to the percentage of *stranger* rapes reported to the police. Note, however, that more than 10 percent of all cases presented to prosecutors involved persons who were related to their victims. This was more than twice the percentage of rapes by relatives reported by police respondents.

TABLE 11

Relationship Between Victims and Accused

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
Stranger	54%	52%	54%
Casual Acquaintances	20%	24%	19%
Friends	14%	14%	17%
Relatives	13%	11%	10%

Drug involvement. The data presented in Table 12 show that the use of alcohol or drugs was noted in more than two thirds of the cases presented to the prosecutor. Although victims were much less likely to have used alcohol or other drugs prior to the offense, nearly one quarter of all cases involved some form of drug use on the part of both victims and offenders.

TABLE 12

Alcohol or Other Drug Involvement

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
None	34%	34%	26%
Consumed by Accused and Victim	24%	20%	27%
Consumed by Accused	30%	38%	39%
Consumed by Victim	12%	8%	8%

Use of force. Actual physical force was used in approximately two-thirds of the rapes presented to the prosecutor. Force was used in slightly over half of the rapes reported to the police. Presumably, the use of force encouraged more diligent pursuit of the case through the system and also enhanced the ability of the prosecutor to prove lack of consent. Significant to prosecutors is the fact that corroborating evidence existed in approximately one-third of the cases presented to them in which actual physical force was used. (See Table 13.)

TABLE 13

Use of Coercion Against Victim or Others

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
Coercion:			
• Threats Only	29%	31%	31%
• Actual Physical Force, With No Corroborating Evidence	34%	38%	34%
Weapon:			
• None	28%	40%	47%
• Firearms	26%	23%	14%
• Sharp instrument	26%	25%	25%
• Blunt instrument	15%	7%	8%
• Other	5%	6%	7%

The percentage of cases presented to prosecutors in which weapons were present or used resembled the patterns reported by police respondents. Weapons were more likely to be used in large counties and the type of weapon was likely to be a firearm.

Victim resistance. The most common type of resistance offered by victims was verbal. Victims were also much more likely to offer physical resistance than to resort to flight. One significant variation from police statistics is the fact that *some* form of resistance was offered by victims more often in cases presented to the prosecutor than in cases reported to the police. Resistance, of course, is directly linked to the ease with which lack of victim consent can be demonstrated. (See Table 14.)

TABLE 14

Resistance Offered by Victim (Multiple Answers Accepted)

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
None	25%	16%	12%
Flight	20%	12%	11%
Verbal	45%	45%	48%
Physical	23%	34%	39%

Victim injuries. Injuries to victims in cases presented to the prosecutor's office tended to be more prevalent in the smaller jurisdictions than in the largest. This mirrored the results obtained in the police survey. However, injuries were less prevalent in general in those cases reported to the police than in those presented to the prosecutor's office. This is to be expected, since cases involving injuries are more likely to be pursued with great vigor and corroboration of the use of force is present. (See Table 15.)

TABLE 15

Injuries to Victim

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
None	39%	31%	30%
Minor, No Medical Treatment	27%	37%	43%
Medical Treatment Required	22%	24%	22%
Hospitalization Required	12%	9%	6%

Injuries when victim resists. Victims who resisted were more likely to be injured than victims who did not. This result was observed across counties of all sizes. The likelihood of receiving injuries which required hospitalization was almost doubled in those cases in which victims resisted their attackers. These results indicated an important danger in the popular notion (and some statutory requirements)

that a victim of an attack should resist to her utmost. (See Table 16.)

TABLE 16

Injuries to Victom When Physical Resistance is Offered

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
None	20%	14%	15%
Minor, No Medical Treatment	23%	39%	39%
Medical Treatment Required	38%	33%	35%
Hospitalization Required	20%	14%	11%

Additional sexual acts. In more than half of the rapes presented to prosecutors, sexual acts other than intercourse were inflicted on the victim. Additional sexual acts were committed more frequently in the large counties than in the two smaller types of counties. Rapes reported to the police tended to include somewhat fewer additional sexual acts than those presented to the prosecutor. Again, we observe that the more traumatic the offenses, the more likely they are to proceed through the system to the prosecutor's office. (See Table 17.)

TABLE 17

Sexual Acts in Addition to Vaginal Intercourse

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
None	37%	48%	58%
Oral Only	35%	32%	22%
Anal Only	10%	6%	5%
Oral and Anal	15%	11%	10%
Other	3%	3%	6%

Multiple charges. Multiple charges occurred much more frequently in the large counties than in the small counties. This tendency is no doubt related to the fact that multiple sex acts (more than one sexual offense) also tend to be concentrated in large jurisdictions. (See Table 18.)

Reported accomplices. Approximately one third of all rapes presented to the prosecutor were committed by more than one person. Police respondents indicated that somewhat fewer multiple offenders appeared in their reports. The comparison of these statistics is complicated by the fact that police treat each rape as one case, while the prosecutor may charge each offender separately. However, it is clear from both sets of data that rapes are generally committed by one person only. (See Table 19.)

TABLE 18

Multiple Charges

Category	Mean Percentage by Population of County		
	Large	Medium	Small
Yes	62%	45%	32%

TABLE 19

Accomplices Reported

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
None	59%	73%	73%
One	21%	17%	13%
More Than One	19%	10%	14%

Promptness of report. Approximately 45 percent of the cases presented to prosecutors were reported to authorities within one hour of the rape occurrence. The respondents to the police survey estimated that 60 percent of the rape reports they received were reported within one hour. One interpretation of the differences in these data is that promptness of reporting to the police has little effect on the chances of the case going to the prosecutor.

TABLE 20

Promptness of Report to Police

Categories	Mean Percentage By Population of County		
	Large	Medium	Small
Within One Hour	44%	46%	48%
Within One Day	35%	36%	40%
One Day to One Week	18%	12%	7%
After One Week	4%	5%	5%

Another possible interpretation is that rapes committed by someone known to the victim were less likely to be reported immediately, and these were the cases in which the suspect could be more easily identified and prosecuted. Only a case-by-case analysis could clarify this discrepancy. (See Table 20.)

Reported witnesses. In slightly more than one half of the rape cases presented to the prosecutor there were no witnesses at all to the offense. Eyewitnesses, in particular, were very rare. In rape cases reported to the police there were no witnesses in approximately three fourths of the offenses. It is clear from the comparison of prosecutor and police data that the existence of witnesses enhances the probability of an arrest and makes for a more prosecutable case. (See Table 21.)

TABLE 21

Reported Witnesses to the Offense

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
None	57%	62%	63%
Eyewitnesses	8%	9%	8%
Corroborating Witnesses	35%	29%	29%

Proof of penetration. Physical proof of penetration was somewhat more prevalent in cases presented to prosecutors in medium and small counties than in those presented in the largest counties. These differences could be related to the longer delays in victim reporting in larger counties. For some inexplicable reason, physical proof of penetration was present in *fewer* cases presented to the prosecutor than in those reported to the police. (See Table 22.)

TABLE 22

Physical Proof of Penetration Detected

Category	Mean Percentage by Population of County		
	Large	Medium	Small
Yes	50%	61%	59%

Evidence of premeditation. Less than 25 percent of the cases presented to prosecutors had evidence that the offense was planned. This could indicate either that the offense is usually spontaneous or that evidence of premeditation is difficult to acquire. In those cases in which there is evidence of planning, prosecution should be easier. (See Table 23.)

TABLE 23

Evidence That Offense Was Planned

Category	Mean Percentage by Population of County		
	Large	Medium	Small
Yes	16%	26%	23%

Victim/offender race. In counties of all sizes, rape offenses tended to be intra- rather than inter-racial. The main difference among the types of counties was that the frequency of inter-racial offenses in large counties was twice that reported in medium counties and four times that reported in small counties.

Both police and prosecutor respondents reported almost identical racial patterns in the cases presented to them. This suggests that there may be relatively little racial bias in the development of cases for prosecution. (See Table 24.)

TABLE 24

Race of Victim and Accused

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
Both White	27%	50%	63%
Both Minority	34%	24%	25%
Accused White/Minority Victim	10%	6%	3%
Accused Minority/White Victim	20%	20%	9%

Age of victim and accused. More than one half of the rape cases presented to the prosecutors involved adult victims and adult offenders. The victim/accused age data on cases presented to the prosecutor were very similar to those reported to the police, except that slightly more prosecutors' cases involved adult offenders and minor victims. (See Table 25.)

Suspect identification. The victim's ability to identify her assailant (by name or visual identification) was three times more frequent in those cases

presented to prosecutors than in the reports to police. Thus, it seems apparent that suspects are rarely identified by means other than victim recognition. (See Table 26.)

Suspects' occupation. The great majority of suspects in rape cases presented to prosecutors were either unemployed or engaged in non-professional activities. In rape cases reported to the police a substantially higher percentage of offenders were considered either professionals or students. This is an important finding, since it suggests that the more affluent or privileged offender is either less likely to be caught or less likely to be charged with rape. (See Table 27.)

TABLE 25

Ages of Victims and Accused

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
Both Minors	7%	9%	9%
Both Adults	59%	60%	59%
Adult Accused/Minor Victim	26%	24%	30%
Minor Accused/Adult Victim	9%	3%	2%

TABLE 26

Extent of Identification of Accused

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
Accused Name	23%	23%	28%
Victim Able to Identify	64%	63%	61%
Identification by Means Other Than Witness	13%	15%	11%

TABLE 27

Occupation of the Accused

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
Unemployed	39%	38%	37%
Non-Professional	46%	50%	52%
Professional	5%	3%	2%
Student	10%	9%	9%

Previous arrests of accused. A very high percentage of the cases presented to prosecutors involved suspects with extensive arrest records. Similar patterns and frequencies of previous arrests were observed in the results of the police survey. Note that previous arrests for some form of sexual or violent offense were much more prevalent in the large counties than in the medium or small counties. (See Table 28.)

TABLE 28

Accused With Previous Arrest Records

Categories	Mean Percentage by Population of County		
	Large	Medium	Small
Rape	26%	16%	17%
Other Sex Offenses	24%	22%	12%
Other Violent Offenses	38%	25%	22%
Felonies (Non-Violent Crimes)	28%	23%	23%

Overview of the characteristics of rape offenses reported to prosecutors in large counties. According to the respondents from prosecutors' offices in the most populated counties, rape cases presented to them occurred most frequently either out-of-doors or in motor vehicles. Slightly more than one half of the rapes occurred between strangers. Although a substantial proportion of rapes occurred between acquaintances, sexual assaults which involved friends or relatives were rare. Alcohol or drug involvement on the part of the part of suspects was common.

Physical force was employed in over 70 percent of all assaults. When weapons were involved, guns, and then knives were used most frequently. Victim resistance was noted in more than three quarters of all cases. Physical resistance on the part of victims, however, was much more rare than in medium or small jurisdictions. When physical resistance was offered, the probability of victim injury increased two-fold. Victim injuries, whether resistance was offered or not, were observed in more than half of all cases. The majority of these injuries required either medical attention or hospitalization. The rape offense itself was usually accompanied by other sexual acts in addition to vaginal penetration.

Overwhelmingly, suspects were unemployed or blue-collar workers, although a substantial proportion of suspects in large counties were considered

"professionals." A large percentage of offenders had previous arrest records which included both violent crimes and serious sexual offenses.

The majority of rapes occurred within racial groups. Approximately three quarters of all offenses involved either minority offenders and/or minority victims. In general, most offenses occurred between adults, although the combination of minor offender/adult victim was observed more frequently in the large counties than in the small or medium populated counties.

Most victims reported rape offenses to the police very quickly, i.e., within one hour of the offense. Eyewitnesses to rapes were rare. In the largest counties, however, the presence of corroborating witnesses was more common than in the smaller counties. Although medical evidence of proof of penetration occurred in half of all cases, such proof was more likely to be available in counties with smaller populations.

Overview of the characteristics of rape offenses reported to prosecutors in medium and small counties. Respondents from counties with populations less than 1,000,000 persons reported that offenses occurred most frequently in motor vehicles or in the residence of the victim. Hitchhike-related rapes accounted for about the same proportion of offenses in these smaller counties as in the larger ones. Almost half of the rapes occurred between persons who were *not* known to one another.

Physical force was used less frequently against victims in these counties than larger ones. When weapons were used, knives, rather than firearms, were the weapons of choice. Victims more frequently resisted the assaults either physically or verbally than in the largest counties. Physical resistance less often resulted in victim injuries serious enough to require medical treatment than in large jurisdictions. Victims were subjected to fewer additional sexual acts in smaller jurisdictions. When such acts occurred, they generally consisted of oral sexual contact.

Offenders in medium and small counties almost always acted alone. Offenders had fewer previous arrests than in the largest jurisdictions. Most rapes were intra-racial and far fewer involved minority offenders than in the largest jurisdictions.

Rape reports were generally made promptly and long-delayed victim reports were rare. Although eyewitnesses and corroborating witnesses to the assault were seldom available, many victims were able to identify their assailants.

Comment. Although the findings from the factors section of the survey are of great interest and highly provocative, it should be noted that they represent the first national statistics gathered to describe circumstances surrounding rape offenses. Great care should be taken in their use. Individual agency responses varied widely. The data, which represented averages from county groupings, were intended to provide descriptions of "typical" characteristics and circumstances associated with rape offenses.

Factors in Decision Making

Charging-decision factors. The respondents were asked to select those factors important in the decision to file charges either for forcible rape or for some lesser charge. The responses, as indicated in Table 29, were somewhat predictable. Over half of the respondents agreed that use of physical force, proof of penetration, promptness of reporting, extent of suspect identification, injury to victim,

TABLE 29

Rank Order of Important Factors in Filing Rape or Lesser Charge

Rank in Filing Decision	Factors	Percent Choosing This Factor
1	Use of Physical Force	82.0%
2	Proof of Penetration	78.0%
3	Promptness of Reporting	71.3%
4	Extent of Suspect I.D.	67.3%
5	Injury to Victim	63.3%
6	Circumstances of Initial Contact	61.3%
7	Relationship of Victim and Accused	60.7%
8	Use of Weapon	58.0%
9	Resistance Offered by Victim	54.0%
10	Witnesses	36.0%
11	Suspect's Previous Record	31.3%
12	Age of Victim or Suspect	24.7%
13	Alcohol or Drug Involvement	12.7%
14	Victim's Previous Arrest Record	10.7%
15	Sexual Acts Other Than Intercourse	9.3%
16	Location of Offense	4.0%
17	Accomplices	3.4%
18	Race of Victim and Suspect	.7%
19	Occupation of Suspect	.7%

circumstances of initial contact, relationship of victim and accused, use of weapon and resistance offered by the victim were important factors.

It can be seen that of the nine most frequently chosen factors selected by over half of the respondents, four were related to the use of resistance to force. Factors traditionally related to the issue of consent (initial contact, relationship, drug/alcohol involvement) took lower priority in the decision to file for forcible rape. Personal characteristics of the victim and offender (age, race, occupation, criminal record) were the least important factors in the decision to file charges.

Factors important for obtaining convictions. An examination of the ranked order of factors identified as important in obtaining convictions (see Table 30) discloses, as might be expected, a pattern similar to that considered important in charging. However, the two most important factors associated with convictions had more to do with the seriousness of the crime than with legal merits of cases. They are, of course, related to the credibility of the victim, but neither the use of actual physical force, nor injury to the victim were necessary elements of the crime.

It is instructive to compare the rank order of factors presented in Table 30. Examination of the relative rankings shows that the prosecutor's assessment of the probability of conviction influenced his decision to file charges. Although there was a high degree of agreement of importance assigned to various factors on both matters, there were some small shifts which indicated that prosecutors gave greater weight to legal aspects of the case in the decision to file charges. Both "injury to victims" and "resistance offered by victim" were not considered as important in the decision to file charges as they were in obtaining a conviction. On the other hand, "extent of suspect identification," "circumstance of initial contact," and "victim's previous arrest history" were considered *more* important in the decision to file charges than in obtaining a conviction.

TABLE 30

Most Important Factors Involved in Obtaining a Conviction of Forcible Rape

Rank In Obtaining Conviction	Rank In Decision To File Charges	Factor	Percent Choosing This Factor
1	1	Use of Physical Force	83%
2	5	Injury to Victim	76%
3	3	Promptness of Reporting	70%
4	2	Proof of Penetration	68%
5	9	Resistance Offered by Victim	66%
6	8	Use of Weapon	64%
7	4	Extent of Suspect I.D.	64%
8	7	Relationship Between Victim and Suspect	55%
9	6	Circumstances of Initial Contact	54%
10	10	Witnesses	52%
11	11	Suspect's Previous Record	26%
12	12	Age of Victim and Suspect	24%
13	15	Sexual Acts Other Than Intercourse	22%
14	13	Alcohol or Drug Involvement	9%
15	17	Accomplices	7%
16	18	Race of Victim and Suspect	6%
17	14	Victim's Previous Arrest History	6%
18	16	Location of Offense	5%
19	19	Occupation of Suspect	1%

Staffing and Procedures

One section of the survey requested information regarding the size, composition, and division of labor in the responding offices. The number of prosecutor staff members in an office varied widely, from one person to 247 people. See Table 31 for the distribution of numbers of prosecutors in offices from counties with large, medium and small populations.

TABLE 31

Distribution of Prosecutors By Population of County

Number of Prosecutor Staff	Distribution by Population of County		
	Large	Medium	Small
1–5	0	17	28
6–10	1	36	5
11–15	0	15	0
16–25	1	13	1
26–50	1	13	0
51–100	5	3	0
Over 100	6	0	0

Prosecutor specialization. The survey sought to determine whether the responding offices employed the use of a special complaint (deputy) prosecutor or group of (deputy) prosecutors to review all felony cases presented to their offices. Fifty-four percent of the respondents said their offices had such a prosecutor or group of prosecutors. It was found that 79 percent of the large counties utilized such specialization with an average of seven special complaint officers per office. In the medium-populated counties, 58 percent reported the use of specialists with an average of four special prosecutors in each office. In small counties, 39 percent reported the use of such prosecutors with an average of two per office.

The respondents were also asked, "Is there a special prosecutor or group of prosecutors responsible for the prosecution of rape?" Among all offices surveyed, 16 percent indicated that such an individual or group existed. It was found that over 35 percent of the large counties had personnel assigned exclusively to process rape and other sexual offense cases. This figure dropped to 15 percent in both the medium and small counties.

It was also interesting to note that of the jurisdictions which utilized special rape prosecution units, five offices staffed these units predominantly with female prosecutors. More detailed study could determine whether this staffing pattern resulted from the extra concern given rape cases by female attorneys who volunteered for such assignments, or whether these offices specifically designated women for this job in deference to public pressure and sensitivity to victims. Of the 33 jurisdictions with sex offense units, 15 had at least one female prosecutor in the unit. Only in the smallest counties where special rape units existed (five offices) was there a complete absence of female personnel.

Large counties had an average of 12 male and two female specialists in the "Sexual Offense Division" of the prosecutor's office. In the medium-populated counties there was an average of six males and 1.5 females per office assigned to such a group. The smallest counties reported an average of 1.4 men per office in the Sexual Offense Division and no females.

Only one of the 34 respondents reported that the rape prosecution specialists handled rape cases exclusively and were not assigned to other felony cases. Two offices reported that their rape specialists handled any sexual assault case in addition to forcible rape. Thus, the majority of offices that employed the use of sexual offense specialists also assigned these specialists to other general criminal matters as well as to rape.

A total of 127 respondents reported that no special rape prosecution group existed in their offices. Among them, all prosecutors handle rape cases in 42 percent of the offices; 34 percent had some persons handle them more than others; and in 24 percent of the offices, particular prosecutors handled all rape cases but they were not a special unit. (Note: perhaps the 24 percent who responded in this manner might be classified appropriately as "specialists." See Table 32 for the percentage of responses by population of county.)

TABLE 32

Non-Specialized Prosecution Units by Population of County

Categories	Percentage Total Responses	Percentage of Responses By Population of County		
		Large	Medium	Small
All Prosecutors Handle Them Equally	42%	46%	38%	52%
All Prosecutors Handle Them, But Some More Than Others	34%	46%	36%	22%
Particular Prosecutors Handle All Rape Cases, But They Are Not A Special Unit	24%	9%	26%	26%

Investigators. Respondents were asked whether their offices employed their own investigators, what the male/female composition of the investigative units was, and whether any of the investigators were assigned primarily to rape and sexual offense cases. The findings clearly indicated that the size of the county determined the investigative resources available within prosecutors' offices. (See Table 33 for a summary of the findings.) All responding offices in large counties reported the use of an average of 27 (25 men and two women) staff investigators. Only two of these offices reported that at least some of their investigators were primarily responsible for rape investigations.

In medium-populated counties, 88 percent of the offices reported the use of staff investigators. Nine offices reported that some of the staff investigators were responsible primarily for rape. Fifty percent of

TABLE 33

Staff Investigators

Categories	Percentage Total Responses	Percentage of Responses By Population of County		
		Large	Medium	Small
Percent Offices With Own Investigators	80.4%	100%	88%	50%
Percent Offices With Rape Investigators	8.5%	15%	9%	0%

all small counties sampled had their own investigative units. No female investigators were reported in counties with populations less than 100,000 persons.

Cooperation with law enforcement. Because much of the success or failure in rape prosecutions rests upon effective interaction between the prosecutor's office and the local law enforcement agency, prosecutor respondents were asked to rate the degree of cooperation they thought existed between the two local agencies.

Table 34 indicates that prosecutors generally were satisfied with their relationship with law enforcement agencies. Slightly better cooperation was reported by respondents from large counties than from medium or small counties.

The reported reasons for this excellent rapport between prosecutors and police appear in Table 35. The most frequently identified cause of the cooperative relationship was the use of liaison personnel between agencies. Note that prosecutor functions (understanding of rape issues and written guidelines for filing) were the least frequently identified reasons reported for the development or maintenance of excellent relationships.

Thirty-two percent of the responding offices indicated less than excellent cooperation ("acceptable" or "needs improvement") with law enforcement agencies. The respondents cited the areas listed in

TABLE 34

Cooperation With Law Enforcement on Rape Cases

Categories	Percentage Total Responses	Percentage of Responses By Population of County		
		Large	Medium	Small
Excellent	69%	80%	68%	65%
Acceptable	28%	20%	29%	26%
Needs Improvement	4%	0%	3%	9%

TABLE 35

Reasons for Good Cooperation With Law Enforcement (Multiple Responses Allowed)

Categories	Percent Responses
Use of Liaison Personnel	50%
Increased Understanding of Rape Issues in Law Enforcement Agencies	44%
Special Rape Units in the Local Law Enforcement Agencies	43%
Increased Understanding of Rape Issues in Prosecutor's Agency	36%
Written Guidelines for Filing Cases	7%

Table 36 as those in which cooperation could best be improved. Clearly, the most frequently identified area of improvement was "increased understanding of rape issues in law enforcement agency." This finding indicates that prosecutors felt that if the police understood fully the essential elements required for a rape conviction, they could more efficiently direct their investigations and procedures to meet these requirements. Other suggestions for improvements included: "more personnel;" "more time spent by both agencies on cases;" "establishment of 24-hour medical facilities;" "better training of law enforcement officers;" and "quicker referral of cases from police to prosecutors."

TABLE 36

Improvement Areas for Increased Cooperation (Multiple Responses Acceptable)

Categories	Percent
Increased Understanding of Rape Issues in Law Enforcement Agency	70%
Establish a Special Rape Unit in the Law Enforcement Agency	30%
Written Guidelines for Filing Cases	27%
Increased Understanding of Rape Issues in Prosecutor's Agency	25%
Use of Liaison Person	23%
Establish Special Rape Unit in Prosecutor's Agency	15%
More Thorough Investigations	5%

Interactions with Victims and Witnesses

One of the most critical steps in processing rape cases occurs during the initial interview with the

complaining witness. At this time, the prosecutor must assess the strength of the case, compile the evidence, and gain the confidence of the victim.

The survey asked whether the responding offices had any special written guidelines for interviewing victims of rape. Only seven of the offices had such guidelines. Without training or written procedures, the prosecutors in the vast majority of offices apparently relied on their own previous experience or intuitive assessment of the situation to explore the circumstances of a very sensitive and often emotionally charged event in the life of the victim.

Respondents were also asked the stage at which the most intensive victim interviewing took place. From Table 37, it can be seen that nearly one-half of all respondents indicated that this interviewing occurred prior to the filing of criminal charges. As cases proceeded through the adjudicatory processes, intensive victim interviewing became much less frequent.

TABLE 37

When Intensive Interviewing of Victim Usually Takes Place

Categories	Percent
Prior to Filing Charge	47%
Prior to Trial or at Trial	18%
At Initial Court Hearing	16%
At Time of Grand Jury Proceeding	12%
Other	8%

Structure of victim interviews. The next point of inquiry concerned the persons who were usually present during the victim interview in addition to the prosecutor. Over 70 percent of the respondents indicated that *someone* else was usually present, including another prosecutor/investigator, family member, or police officer. (See Table 38.) Note that despite the enormous growth of victim services throughout the country, only one percent of the respondents reported that victim advocates were usually present during the interview.

The survey next sought to determine how many times victims (complaining witnesses) were interviewed by the prosecutor prior to trial. Among all surveyed offices, 11 percent reported that only one interview is usually conducted; 36 percent indicated there were at least two interviews; and 53 percent stated that more than two interviews were usually

TABLE 38

Additional Persons Present At Victim Interview

Categories	Percent
No One Else is Present	28%
Another Prosecutor or Investigator	35%
Family Member or Friend of Victim	18%
Police Officer	8%
Victim Advocate	1%
Combinations of Above	10%

conducted. Thus, more than one half of all prosecutors' offices interview the victim three or more times. When this is added to the two or more interviews usually conducted by police (patrol officers and detectives), it appears appropriate that methods should be developed to reduce the number of these interviews.

Polygraph. Another tool of prosecutors in evaluating rape cases is the use of the polygraph examination to test the credibility of the complaining witness. Aside from legal objections, many concerned people have also objected to this procedure as very demeaning to victims. However, according to the survey respondents, the polygraph is not a tool which was employed automatically by most offices. When respondents were asked whether it was their office policy to request rape victims to take polygraph examinations, the findings, indicated that this was largely a discretionary matter. (See Table 39.)

TABLE 39

Polygraph Policy for Rape Victims

Categories	Percentage of Responses By Population of County		
	Large	Medium	Small
Used in Most Circumstances	0%	11%	18%
Used Sometimes	47%	63%	62%
Never Used	53%	26%	17%
Polygraph Not Available	0%	0%	3%

Very great differences in the use of victim polygraph examinations was noted among the types of counties. In 53 percent of the large counties, for example, polygraph procedures were *never* used. It is possible that these large offices rely on other investigative techniques to corroborate victim statements.

Respondents were also asked to specify the circumstances under which a victim polygraph would be required. The responses to this question are shown in Table 40.

TABLE 40

Circumstances Motivating Victim Polygraph Examinations

Categories	Percent
Suspicion of Complainant Deception	47%
Lack of Corroborating Evidence or Witnesses	13%
Where Consent is in Issue	12%
Where There is Evidence of Prior Victim/Defendant Relations	9%
Where Demeanor of Victim Causes Suspicion or Defendant Appears Truthful	6%
Delay in Reporting of Incident	4%
Depends on Circumstances	4%
Used in All Cases	3%
Victim has Promiscuous Past or Has Filed Previous Unfounded Complaints	2%

In general, it appears that victim polygraphs were administered most frequently in cases where the credibility of the victim was in doubt. Few of the reasons identified had any relevance to the evidentiary issues involved in the pursuit of forcible rape complaints.

Victim cooperation with prosecution. The next area of inquiry concerned victim willingness to cooperate in the prosecution of their complaints. One question asked the approximate percentage of victims who withdrew complaints after a suspect was charged. The vast majority of respondents reported a victim "dropout" rate of less than 25 percent (see Table 41). There was an apparent relationship between the frequency of victim withdrawal and the populations of the responding counties, i.e., the smaller the county, the greater the probability of complaint withdrawal.

TABLE 41

Victim Withdrawal of Complaint After Accused is Charged

Withdrawal Rates	Percentage Total Responses	Percentage Responses By Population of County		
		Large	Medium	Small
More than 50%	2%	0%	0%	7%
25%–50%	11%	8%	11%	13%
10%–25%	29%	23%	30%	29%
Less Than 10%	58%	59%	59%	52%

The survey asked for the respondents' appraisal of the reasons for pre-trial withdrawals. Among all responses given, 52 percent stated that victim fear or embarrassment was the predominant reason for the withdrawal. This response included such specific reasons as parental pressure, fear of the defendant, fear of publicity, or simply the added trauma of further investigation or trial testimony.

In 27 of the responding offices, the major reason for withdrawal of complaints was thought to be reconsideration of the charges by the complainant. This included the victim's lack of interest in pursuing the case, ulterior motives for making the complaint, personal inconvenience, and sympathy for the offender.

Fourteen percent of the offices reported that the major reason for withdrawal was due to a prior or subsequent victim/accused relationship which discouraged the complainant from seeking further prosecution.

The remaining eight percent of the respondents stated reasons which were classified as "involuntary withdrawals." These included the inability to locate witnesses or identify the accused, pleas to lesser offenses by the defendant, and victim failure to pass the polygraph examination.

The reasons for complaint withdrawals by population of county are shown in Table 42. The results clearly indicate that fear and embarrassment were the major factors in the withdrawal of complaints, particularly within the smaller counties. However, even in the large counties, these reasons accounted for nearly 40 percent of withdrawals.

TABLE 42

Major Reasons for Victim Withdrawal of Rape Complaints

Categories	Percentage Total Responses	Percentage of Responses By Population of County		
		Large	Medium	Small
Fear/Embarrassment	53%	37%	53%	63%
Victim/Accused Relationship	13%	15%	14%	9%
Victim Reconsideration	27%	37%	29%	21%
Involuntary Withdrawal	6%	11%	4%	7%

Victim handouts. In the last several years, criminal justice agencies have become increasingly concerned with methods which assist and educate victims/witnesses regarding their involvement in criminal procedures. One such method is a handout which provides a written overview of the system and prepares victims and witnesses for the processes which they will undergo.

Respondents were asked whether such handouts were available in their respective jurisdictions, and, if so, whether they were specifically designed for victims/witnesses of rape offenses. Ninety-three percent of the responding offices had *no* handout materials. Of the remaining offices, only *one* had written materials designed exclusively for victims and witnesses of rape or sexual crimes. (See Table 43.)

TABLE 43

Existence of Written Criminal Justice Procedures for Victims/Witnesses

Categories	Percentage Total Responses	Percentage of Responses By Population of County		
		Large	Medium	Small
No Written Description	93%	86%	93%	97%
For Victims/Witnesses of All Crimes	7%	7%	7%	3%
Special Descriptions for Victims/Witnesses of Rape	1%	7%	0%	0%

Victim Services

Much of the attention given to the problem of rape concerns the trauma experienced by victims as a consequence of the offense and as a result of the interaction with criminal justice agencies. This concern has given rise to the creation of rape crisis centers, hot lines, and special hospital programs that provide counseling, advocacy services and medical treatment. Frequently such services play an important role in the willingness of victims to participate in and cooperate with criminal prosecutions.

Availability of medical/forensic services. Respondents were asked whether there were *special* medical and forensic services available for rape victims within their counties. Sixty percent of the respondents answered affirmatively. Such services were found most frequently in the large metropolitan areas of the country. In the large counties, 80 percent of the respondents reported the availability of special medical forensic services. In the middle and small counties, the figures were 63 percent and 41 percent, respectively.

Virtually all (98%) of the special medical forensic facilities operated 24 hours a day. Sixty-seven percent of the respondents stated that the services were conducted at a local hospital or clinic. Rape crisis centers provided the services in five percent of the localities. Private physicians, a victims' advocate service, the state toxicologist, and combinations of the above also provided such services in other counties. Asked if a physician were immediately available to rape victims, 62 percent of the respondents said "always;" 37 percent said that a physician was "generally" available; and only one respondent expressed doubt that medical treatment could be obtained for rape victims on short notice.

Further insight into the area of victim services was obtained by asking, "Who usually takes the victims for medical treatment or forensic analysis?" From the results shown in Table 44, it is clear that this service was usually performed by police officers acting alone or with a member of the victim's family.

TABLE 44

Persons Accompanying Victim for Medical and Forensic Services

Categories	Percent
Police Officer Taking Initial Report	58%
Specially Designated Police Officer	17%
Family and Police Officer	6%
Family or Friends of Victim	2%
Counselor from Rape Crisis Center	1%
Family and Counselor	1%
Other Combinations*	16%

A relatively large proportion (40%) of the respondents reported the absence of special medical services or treatment facilities in their localities. Despite their current absence, such services are planned for many communities. By combining the percentages of counties in which such services already exist with those in which they are planned, special medical-forensic facilities will exist in 93 percent of the large, 74 percent of the medium, and 44 percent of the small counties.

Counseling services. Because the crime of rape creates emotional as well as medical and legal problems, the survey sought to determine the extent of special counseling services available to victims of rape. Overall, 58 percent of the respondents reported that such counseling services were available to victims. Once again a relationship was found between the existence of such services and the size of the county. Counseling services were available in 71 percent of the large, 64 percent of the medium, and 33 percent of the small counties.

Most counseling services (85%) were available to victims on a 24-hour-a-day basis. The staffing of such services seldom consisted of "professional" counselors, i.e., psychologists, social workers, etc. In most counties, victim services were staffed partially or totally by volunteers or specially trained paraprofessionals. (See Table 45.)

TABLE 45

Persons Who Staff Victim Counseling Services

Categories	Percent
Combination of Professionals and Specially Trained Paraprofessionals	42%
Specially Trained Volunteers or Paraprofessionals Only	34%
Professionals (Psychologists, Social Workers, Etc.) Only	20%
Former Rape Victims	1%
Combination of All of the Above	3%

Although the survey was not intended as a means to evaluate the effectiveness of victim services, it did seek to assess the prosecutors' view of such services. When respondents were asked to characterize the level of cooperation between their office and the corresponding victim counseling service, the majority characterized the relationship as very cooperative. Table 46 shows the results from this question according to the populations of the counties included in the sample.

TABLE 46

Relationship With Support Groups

Categories	Percentage of Responses by Population of County		
	Large	Medium	Small
Very Cooperative	60%	69%	54%
Somewhat Cooperative	40%	21%	46%
Not Cooperative	0%	10%	0%

With few exceptions, the relationship between support groups and prosecutors was reported to be either "somewhat" or "very" cooperative. It was particularly encouraging to observe that, at least from the viewpoint of prosecutors, such cooperation could exist between two organizations that might have very different values and goals.

The final question in this section was addressed to those respondents who indicated that no special counseling services were available. They were asked how such services would best be provided. The responses in Table 47 indicated that nearly half of the prosecutors in locations without specialized rape counseling services considered counseling of rape victims a specialized skill and recommended that only professional persons staff such programs.

TABLE 47

Who Should Provide Counseling Services

Categories	Percent
Professionals (Psychologists, Social Workers, Etc.) Should Provide Services	44%
An Agency Staffed by Specially Trained Volunteers Should be Developed	17%
There Should be a Hospital-Based Program	9%
Law Enforcement Agencies Should Provide Them	6%
Combination of the Above	24%

Adjudicatory Processes

This section of the survey sought to examine the significance and extent of factors generally associated with the adjudication of rape cases, i.e., necessity or value of corroborative evidence, cautionary jury instructions, use of plea negotiations, etc. In some instances, these factors were required by statute or case law. In other instances, they were assumed to be important in the development of a strong case, but were not legal requirements.[3]

[3] The sampling procedures used for this survey did *not* result in an equal distribution of respondents from the fifty states. Some states, such as California and New York, had more respondents than other states which were represented to a lesser degree or not at all. Therefore, sections of the survey which related to matters of state law produced findings which gave disproportionate weight to those particular states.

TABLE 48

Levels of Corroboration Required

Categories	Required By Statute	Required By Judicial Decision	Indispensible To Building A Strong Case	Useful in Building a Strong Case
Identity of the Accused	8%	4%	30%	57%
Penetration	26%	8%	21%	46%
Force or Coercion	26%	4%	20%	51%
Resistance	10%	5%	20%	64%
Lack of Consent	30%	3%	21%	45%

Corroboration requirements. Respondents were asked to complete a table which represented the "level" at which corroboration was required or useful for each of the major elements of the crime of forcible rape. Table 48 shows the percentage of respondents who indicated the levels at which corroboration was necessary.

The first observation to be made from Table 48 is that, in those instances where corroboration was *required*, it was usually the result of legislative mandate. That is to say, if the state legislatures did not place added burdens of proof upon the prosecution, then the courts have rarely taken the initiative in this regard.

These data also illustrate how rape differs from other criminal prosecutions. The survey results indicated that corroboration was most often required to establish the elements of lack of victim consent, penetration, force/coercion, but not the issue of the identity of the accused. It was not obvious why the law accepts non-corroborated victim testimony regarding the identity of the accused, but places inherent doubt upon her testimony related to penetration, lack of consent, and the use of force. For *all* elements of the crime covered by the survey, nearly one half of the prosecutor respondents indicated that corroboration was a necessity either because it was required by legislative or judicial mandate, or indispensable to prove beyond a reasonable doubt that the defendant was guilty.

Prior chastity evidence. The next area covered by the survey in this section concerned the admissibility of evidence of the rape victim's prior sexual conduct with the defendant or others. This issue, is, of course, one of the most controversial aspects of forcible rape law and a frequent point of attack by legal reformers and advocates of more effective and fair rape prosecutions.

Respondents were asked to what degree the victim's prior chastity was admissible in court when the defense was one of consent. Table 49 shows that the vast majority of prosecutors surveyed reported that such evidence was admissible to some degree.

TABLE 49

Admissibility of Evidence of Victim's Prior Sexual Activity

Categories	Percent
Prohibited by Statute	5%
Prohibited by Judicial Decision	10%
Admissible by Statute	23%
Admissible by Judicial Decision	63%

Of the respondents who stated that evidence of the victim's sexual history was admissible by statute or judicial decision, 80 percent indicated that such evidence was limited in certain ways. Table 50 details these limitations.

These same respondents were asked what impact they thought the admissibility of evidence concern-

TABLE 50

Ways in Which Prior Sexual Conduct Evidence is Limited

Categories	Percent
Limited at Discretion of the Court	37%
Limited in Relation to Defendant	20%
Limited to a Recent Time Period	14%
Limited Only to Issues of Victim Chastity	9%
Limited to Cases Where Consent is an Issue	4%
Limited to General Character Evidence and Deleting Specific Details	1%
Limited by Age of Victim	1%
Combinations of the Above	13%

ing the victim's sexual conduct had on the prosecution of rape cases. The data (summarized in Table 51) indicated that most prosecutors felt that admission of such evidence was a major factor in jury deliberation. The impact was considerably reduced when cases were considered by the court alone.

TABLE 51

Impact of Evidence of Victim's Previous Sexual Conduct

Categories	Impact in a Jury Trial	Impact in a Court Trial
	Percent	Percent
None	9%	2%
Slight	6%	28%
Some	20%	48%
Considerable	74%	22%

Plea bargaining. The frequency and appropriateness of plea bargaining in rape cases was also explored. The questionnaire asked respondents to estimate the percentage of *rape* cases presented to their offices in which plea bargaining was used and in what percentage of *all* cases was bargaining appropriate.

The results indicated that prosecutors in large counties tended to favor the use of plea bargaining more than those in smaller counties. (See Table 52.) However, prosecutor respondents from counties representing all population groups favored more plea bargaining than was actually used.

TABLE 52

Use of Plea Bargaining in Rape Cases

Categories	Percentage Total Responses	Percentage Responses by Population of County		
		Large	Medium	Small
Used Plea Bargaining	54%	62%	55%	47%
Plea Bargaining Appropriate	60%	65%	62%	54%

The survey asked the respondents' opinion of the plea bargaining system used in their local jurisdiction. Seventy-seven percent of the respondents stated that the plea bargaining system "Is fine the way it is." The reasons offered for their satisfactory appraisal are shown in Table 53.

Only 19 percent of the respondents stated that the plea bargaining system should be "retained, but changed." Table 54 shows how these respondents felt plea bargaining could be improved.

TABLE 53

Reasons for Satisfaction With Plea Bargaining

Reasons	Percent
The System is Fair and Effective	47%
Victim Gets Satisfaction and is Relieved of Further Trauma of Court Trial, Etc.	9%
Relieves Unmanageable Case Load	7%
Only the Length of Sentence is Bargained, and Not Guilt or Innocence	7%
Used with Prosecutors' Discretion and Only for Selected Cases	7%
No Opinion Given	22%

TABLE 54

Areas in Which Plea Bargaining Could Be Improved

Categories	Percent
Resulting Sentences Should be More Severe	29%
Court Should Participate More	17%
Uniform Policies Should be Developed	8%
Pleas Should be Based on a System of Degrees	8%
Miscellaneous (Time Limits, Court Should Be Bound by Bargain, Etc.)	21%
No Opinion Given	17%

Only six respondents stated that plea bargaining should be totally eliminated. The reasons offered for their dissatisfaction with the bargaining system included: (1) the belief that all cases should be brought to trial and resolved; (2) cases should be filed and tried according to the strength of the evidence; (3) manpower shortages and lack of court services should not benefit the defendant, and (4) defendants should not plead to crimes for which they are innocent.

In general, respondents indicated satisfaction with the plea bargaining system used in their jurisdictions. Less than one-fourth felt that plea bargaining should be changed or eliminated. However, this result should be expected, since prosecutors might benefit more from plea bargaining than others involved in rape cases. It would be interesting for prosecutors to communicate their reasons for feeling it is a fair, effective system for rape victims, police, the judiciary, and others concerned with this aspect

of the criminal justice system's handling of forcible rape.

Jury instructions. The next area of inquiry concerned the use of the Lord Hale-type cautionary jury instruction. When utilized, juries are told that the charge of rape is easily made and difficult to defend against. Therefore, juries are instructed to view the testimony of the victim with caution. At the time of the survey only three states, by statute, required this instruction but no states specifically prohibited its use. Furthermore, in other states the instruction is either required by judicial mandate or discretionary with the court.

The thirty-two respondents who indicated that the cautionary jury instruction was required in their jurisdiction were asked to evaluate the effect of this instruction on the prosecution's case. Forty percent stated that it had "considerable" impact; 43 percent said it had "some" impact; and only 17 percent said it had "slight" or "no" impact whatsoever. It is clear that most prosecutors felt that the use of the instruction was unduly prejudicial and could adversely effect the prosecution's case. Thus, the trend toward diminishing use of the cautionary instruction should be welcomed by prosecutors.

Sentencing. Respondents were asked for the "average sentence actually imposed" on persons convicted of forcible rape in their jurisdictions. Because the respondents usually answered this question within a range of years, results were tabulated separately for the minimum and maximum values provided.

The range of minimum sentences ranged from zero years to life. The most frequent minimum sentences were zero years (35%), 1 - 5 years (29%), and 6 - 10 years (29%). Thus, more than one third of the respondents indicated that the average minimum sentence required no imprisonment for convicted rapists.

Fifty-eight of the respondents also indicated the average maximum sentence imposed. Although the sentences ranged from one year to life, the median maximum sentence was 20 years.

Respondents were asked their assessment of the appropriateness of sentences actually imposed in their jurisdiction. A large majority (73%) felt that the average sentence imposed was appropriate. This assessment of appropriateness, however, varied according to the size of the responding counties. Ninety percent of those respondents from small jurisdictions felt that the average sentence was appropriate, whereas only 71 percent of the respondents from the medium jurisdictions, and 54 percent of the respondents from the large jurisdictions were satisfied with the average imposed sentence.

The respondents who believed sentences to be appropriate were asked to explain the reasons for their opinion. Sixty-seven percent said that the sentence "fit the crime;" 21 percent believed it was appropriate because it was adequate punishment; and 12 percent said that it provided ample time for rehabilitation and protection for the public. Among the respondents who felt that the average imposed sentence was not appropriate, 55 percent thought it was too lenient; and 45 percent believed that the use of parole or probation was excessive. No respondent felt that average sentences imposed were too severe.

Obtaining convictions in jury trials. Respondents were asked to indicate two of the major difficulties they experienced in getting juries to convict for forcible rape. Although the problems mentioned covered a wide range of alternatives, one problem stood out. Nearly every respondent (92%) indicated that the credibility of the victim was either the most important or second most important problem in getting juries to convict for forcible rape.

The credibility of the victim is particularly important in rape cases, since eyewitnesses or corroborating witnesses to the crime are rare. Because of the necessity to prove force or threat of force and lack of consent, and since the victim is usually the prosecution's only witness, her credibility becomes extremely salient in influencing the decision of jury members.

Another problem associated with jury trials, indicated by 22 percent of the respondents, was the strictness of the corroboration requirements. Although corroboration was eliminated as a requirement in some jurisdictions, it remains an important problem in others. An additional problem identified by respondents was excessively severe penalties. Apparently, juries are reluctant to find a defendant guilty when the possible penalties appear too severe relative to the perceived gravity of the crime.

Sex offender registry. Respondents were asked if their jurisdiction had a statutory requirement that "convicted rapists register as sex offenders?" It was found that only 14 percent had such a requirement. Among the respondents from jurisdictions that had a statute requiring such registration, only

38 percent indicated that such legislation had either "some" or "considerable" impact in controlling the frequency of forcible rape offenses.

Offender programs. Respondents were asked if their jurisdiction had a special medical/psychological program for sex offenders as an alternative to or in addition to incarceration. A large majority (71%) indicated they did not have such a program. Among those jurisdictions where they existed, only 37 percent used it in one half or more of the cases in which there was a conviction for rape. In 45 percent of the jurisdictions that have such a program, it is used less than 25 percent of the time.

In cases where the medical/psychological program alternative had been used, the reasons most often cited for its use were previous mental history of defendant (56%) and mandatory by law (28%). The responses indicated that the program was employed upon the recommendation of various persons involved in the case including medical personnel, prosecutors, pre-sentence units, correctional authorities, and defense attorneys.

It should be noted also that the smaller the responding county, the less likely it was to have such a program available. Forty percent of the large counties, 32 percent of the medium, and 15 percent of the counties in the small category had such programs.

Innovations in Dealing with Rape Offenses

A great deal of attention has been focused on the crime of forcible rape and the criminal justice system response to it. This section of the survey was designed to gain information on the degree to which prosecutor's offices have responded to this attention by introducing new procedures and reallocating resources. Questions were asked concerning reasons for increased reporting, studies that had been conducted, changes needed outside the prosecutors' offices, and changes in legislation that seem necessary.

Reasons for increased reporting of rape. The trend in the frequency of reported forcible rapes may be one influential factor in both the attitudes of prosecutors toward rape cases and the extent of the measures taken to deal with the problem. Over half (56%) of the respondents reported an increase in rape reports in the last few years. The remaining respondents reported no increase in the incidence of rape offenses (36%) or did not respond to the question (8%). No estimate of the rate of increase was requested.

TABLE 55

Reasons Given for Increases in Frequency of Reported Forcible Rape Offenses (Multiple Answers Requested)

Reason	Percent
General Increase in Violence	76%
More Reporting Because of Change in Public Attitude Toward Rape	61%
Women's Liberation	30%
More Reporting Because of Increased Sensitivity of the Criminal Justice System	30%
Sexual Permissiveness	24%
Change in Legislation	17%
More Reporting Because of Increased Convictions	10%
Influence of Pornography	5%
Hitchhiking	2%
Population Growth	2%
Racial Tensions	1%
No Explanation - "just more rapes"	4%

Prosecutor respondents who indicated an increase in reported rapes in their jurisdictions were asked to evaluate the three most important reasons for this. From the data presented in Table 55, it was clear that these respondents primarily ascribed extra-criminal justice system causes to the increases in reported rapes. They felt that more rapes occurred as a result of a general pattern of increased violence and that rapes were more likely to be reported because attitudes toward rape had changed. Presumably, those changes in attitudes primarily concerned increased victim willingness to make offenses known to the police. A number of respondents indicated that more criminal justice system sensitivity, changes in legislation, and more frequent convictions had something to do with the increase in reported rapes, but the majority of reasons given had little to do with policies or activities under the control of prosecutors.

Rape studies. Respondents were asked if any special studies of rape had been conducted in their jurisdictions in the last three years. Twenty-one percent of the respondents replied affirmatively. Among these offices, less than 20 percent performed the studies themselves. In the remainder of the offices, the studies were conducted by persons outside the agency who were interested in a variety of topics including victims (85%), police (71%), pre-trial prosecutor actions (71%), offenders (61%), prevention (57%), and trial procedures (57%).

It was interesting to note that fewer studies of rape were conducted in prosecutor's offices than in police departments. Respondents in the companion police survey reported that studies had been conducted in more than one third of their departments and in two thirds of all large departments. Compared to police agencies, it would appear that prosecutors have devoted relatively few resources to the examination of rape offenses in their jurisdictions.

Procedural changes. Respondents were asked if their agency had changed procedures in dealing with rape offenses in the last three years. Twenty-six percent replied that new procedures had been instituted. Changes which these agencies reported are shown in Table 56.

TABLE 56

Changes Made by Agencies in Dealing With Rape Offenses
(Multiple Responses Acceptable)

Type of Change	Percent
Better Forensic Techniques	37%
Use of Female Deputies	33%
Special Training	33%
Use of Female Investigators	30%
Special Rape Unit	30%
New Investigative Techniques	22%
Other Changes	33%

No particular prosecutive innovation was paramount. Some changes appeared to reflect concerns with the treatment of victims (use of female deputies and investigators), while others were more concerned with means to develop the technical aspects of rape cases (forensic and investigative applications). The 33 percent who mentioned "other changes" listed such activities as vigorous pursuit of all rape cases, development of new evidence guidelines, and the processing of each case by one assistant.

The percentage of respondents who reported changes in their handling of rape cases was very much dependent upon the population groupings of the counties. Sixty-four percent of the respondents from the large counties reported changes in the last three years compared with 39 percent in the medium and 18 percent in the small counties. It is probably true that offices handling only a few cases per year neither feel much pressure to change procedures nor have the resources to institute changes.

Respondents were asked about office plans for future changes in handling rape cases. Over one fourth of the respondents replied that they had such plans. These respondents were asked to specify what these changes would include. The results are shown in Table 57.

TABLE 57

Changes Agencies Plan to Make in The Near Future
(Multiple Answers Acceptable)

Type of Change	Percent
Special Training	46%
Special Rape Unit	31%
Use of Female Investigators	28%
New Investigation Techniques	28%
Better Forensic Resources	23%
Use of Female Deputies	22%
Other Changes	33%

Note that the most frequent future changes involved some form of specialization, i.e., training or the development of special rape units within the respective offices. The more traditional "generalist" role of the criminal deputy has or is likely to be modified significantly before the end of this decade.

The "new investigative techniques" envisioned for the future included more frequent use of the polygraph, more victim follow-up, and more effective relationships with the police and public. The "other changes" category included enlargement of police involvement with case development and new methods of dealing with rape victims.

In-service training. When asked if members of their office received special training covering the problem of forcible rape, 19 percent of the respondents replied affirmatively. When this relatively low figure was compared with the number of offices (54%) having special rape prosecutors, it must be concluded that much of the specialized training in rape was accomplished by intensive case assignment methods that resulted in the accumulation of rape case experience in a few select individuals. As would be expected, offices in large counties (40%) were more likely to offer special training than prosecutor agencies in medium or small counties (18% and 9%, respectively). The actual topics or

elements contained in the specialized training are presented in Table 58.

Note that the one topic included in almost all prosecutor training concerned methods of interviewing victims. The frequency with which this item was identified suggests that it was an area of particular difficulty which required structured guidance.

Agencies which provided special training to their personnel used a variety of participants as teachers. Although prosecutors participated in three quarters

TABLE 58

Elements of Special Training for Handling Forcible Rape Cases
(Multiple Responses Allowed)

Elements	Percent
Interviewing the Victim	93%
Special Evidence Requirements	75%
Dealing with Victim's Family and Friends	57%
Referral Services for Victims	46%
Characteristics of Offenders	39%
Rape as a Social Problem	25%
Other Subjects	7%

of all training programs, police officers, medical personnel, rape counselors, behavioral scientists, and victims were frequently involved.

Improvements needed in dealing with rape. In order to assess those areas in which the criminal justice system could improve the handling of forcible rape cases, respondents were asked to choose the three most important among seven alternatives provided in the questionnaire. The results from the question are presented in Table 59.

TABLE 59

Most Important Improvements Needed for Handling the Problem of Forcible Rape
(Multiple Responses Requested)

Improvement Area	Percent Response
Public Education	64%
Police Investigative Techniques	50%
Police Training	34%
Treatment/Rehabilitation of Offenders	25%
Sentencing	24%
Legal Reform	20%
Prosecution Policies	10%

Respondents rated public education as the area which required the most improvement. Unfortunately, neither the questionnaire nor the respondents indicated the content of the education process or the goals which might be achieved. However, it was interesting to note that the change considered most important by prosecutors was the one most removed from the direct responsibility of the criminal justice system.

One half of the respondents also indicated a need for improvements in police investigative techniques. Although the precise nature of these techniques was not explored, it was assumed that much of the suggested improvements concerned the proper handling of physical evidence. Preservation of this evidence, as discussed earlier, was considered essential to the prosecution's case. Physical evidence not secured during the first stage of investigation greatly reduced the chances of conviction.

One fourth of the respondents felt that important changes were needed in the treatment and/or punishment of convicted rapists. A similar percentage of respondents felt that sentencing policies required improvement. Only 10 percent of the respondents indicated that changes in prosecution policies were important improvements. Thus, the majority of respondents placed the burden of change on the public, police and the judiciary.

When the questionnaire was developed, it was anticipated that many prosecutors would desire reform of the forcible rape laws in their respective states. This presumption was not entirely accurate. Only 20 percent of the respondents chose legal reform as one of the three most important changes needed to improve the handling of forcible rape cases.

Despite the relative judgements regarding the importance of legal reforms, respondents were asked to list the changes that they would like to see in rape laws. Some 49 specific changes were suggested. These changes are grouped under the major headings shown in Table 60.

The legal reform most frequently recommended concerned restrictions on the nature and content of the cross-examination of victims. Such restrictions would forbid defense attorneys from exploring particular aspects of the sexual history of victims. Presumably, such restrictions would prevent the defense from intimidating the victim or discrediting her testimony by forcing her to reveal instances of previous consensual sexual activities with persons other than the defendant. Sexual revelations of this nature have often been used before juries to create

TABLE 60

Most Important Changes in Rape Laws Desired by Prosecutors' Offices
(Multiple Responses Acceptable)

Described Change	Percent
Reforms in Evidence Parameters Limiting Extent of Victim Cross-Examination, e.g., Prior Sexual Conduct of Victim	36%
Statutory Reforms Including: System of Degrees; Broader Definition of Rape; Greater Range of Penalties; Eliminate Requirement of "Utmost Resistance"	13%
Permit Defendant Character and Propensity Evidence	12%
Harsher Sentencing	12%
Provide Medical and Psychological Programs	6%
Limit Publicity; Close Proceedings to Public	6%
Lower Penalties to Increase Convictions	5%
Remove Cautionary Instruction	4%
Provide Free Services to Victims	4%
Miscellaneous	5%

doubt regarding the credibility of the victim complaint.

Suggested statutory reforms primarily concerned more flexibility in legislative requirements pertaining to forcible rape. Included in this category were recommendations for degrees of forcible rape and broader legal definitions to encompass forcible sexual assaults on males, spouses, etc.

On the surface, two categories of recommended legal reforms appeared contradictory, i.e., harsher sentencing and less severe penalties to increase convictions. However, these two suggestions are not necessarily incompatible. The recommendation for the harsher sentencing was directed more at judicial practices than at legislative requirements for sentencing. In contrast, a substantial proportion of respondents indicated that the prospect of severe punishment sometimes affected juries adversely, i.e., increased jury reluctance to convict offenders.

The remainder of the recommended reforms related primarily to the provision of protections or services to victims and offenders. Suggestions included: (1) the development of adequate treatment programs for sexual offenders (medical and psychological); (2) closed trial proceedings to protect victims; and (3) the provision of victim services.

All of these changes in rape laws have been enacted in some states. However, no systematic study of the effects of these changes has been undertaken. From the prosecutors' point of view, it would seem important to determine which reforms have been most effective and which they might devote their efforts to promote.

Conclusion

The crime of forcible rape is a relatively infrequent event confronting prosecutors and yet it can be one of the most serious forms of criminal victimization that can befall any of their constituents. Conflict arises as to the means by which scarce resources can be utilized to achieve general efficiency and effectiveness. Rape, by its sheer infrequency, yet severe nature, may present that conflict in the extreme. Prosecutors, like police, appear to have chosen a middle course, applying generalized procedures and policies to the processing of forcible rape cases, but recognizing the unique nature of the crime. Where local situations dictate, agencies are likely to provide greater and more specialized resources.

Prosecutors have been slower to respond than law enforcement officials to community and victim concerns for the development of improved methods for handling forcible rape cases. At this point, prosecutors view the responsibility for significant change as resting with others; particularly with the police and the public. Despite the apparent reluctance to critically examine their own role in the processing of rape cases, many prosecutor agencies plan to institute new procedures or policies in the future.

APPENDIX A

PROSECUTOR QUESTIONNAIRE—
FORCIBLE RAPE

PROSECUTOR QUESTIONNAIRE—FORCIBLE RAPE

This questionnaire has been prepared jointly by the Battelle Law and Justice Study Center and the National Legal Data Center under contract with the Law Enforcement Assistance Administration. The Prosecutor Survey is one segment of a national study of forcible rape being undertaken by Battelle and NLDC on behalf of LEAA. Other portions of the research involve police, victims, and offenders.

The purpose of the Prosecutor Survey is to determine which techniques prosecutors use that can best assist in the investigation and prosecution of rape cases. Once this is done, local proecutorial agencies can evaluate these methods and determine which might be the most valuable for use in their own offices.

The questions in this survey focus on Classification Methods, Prosecutorial Procedures, Victims-Witnesses, Trial Procedures, Rape Convictions, and Innovations in the area of rape. The second section of the questionnaire contains charts pertaining to the number of rape cases handled by your office and the disposition of these cases.

In order to fulfill the goals of our study we are asking you to provide three types of information. We are requesting some data that is strictly factual, e.g., how many rapes were presented to your office during 1974. We are also asking you to send us certain kinds of printed matter your office may be using. (A checklist of these items is located on the last page of the first part of the questionnaire.) The last kind of information we are requesting is in the form of some subjective judgements and estimates. We understand that all judgements and estimates contain some degree of the individual's own "gut feeling." Please be assured that no subjective judgement you provide will ever be portrayed as indicative of your own office's official policy.

(Please leave blank)

Coding	Columns
0 1	(1-2)
- - -	(3-5)
- - -	(6-8)

NAME OF AGENCY _____

NAME AND TITLE OF AGENCY HEAD _____

_____

For statistical reasons it is necessary for us to have certain information about the individual(s) who actually fill out this questionnaire.

NAME(S) _____ - - (9-10)

TITLE(S) _____ - - (11-12)

- - (13-14)

DURATION(S) OF EMPLOYMENT WITH OFFICE _____ - - (15-16)

SEX OF EACH PERSON _____ - - (17-18)

HOW LONG HAS EACH PERSON BEEN INVOLVED WITH HANDLING OF RAPE CASES?

_____ _____ Years _____ _____ Years - - (19-20)

- - (21-22)

****

A. CLASSIFICATION METHODS

In order to better understand the nature of forcible rape in your jurisdiction, we need to have information related to the definitions and classifications you use for filing rape cases.

A.1. Check which of the following elements at a minimum must be present under your rape statute for a complaint prosecutor to file an assault as 'forcible rape.' (Mark all relevant.)

☐ Penetration	-	(23)
☐ Physical force	-	(24)
☐ Threat of force	-	(25)
☐ Presence of weapon	-	(26)
☐ Evidence of resistance	-	(27)
☐ Without consent	-	(28)
☐ Female victim	-	(29)
☐ Other(specify): _____	-	(30)

35

	Coding	Columns
A.2. Is your present rape statute currently under review?		
☐ Yes	–	(31)
☐ No		
By whom? _____	– –	(32-33)
What changes are being contemplated? _____	– –	(34-35)
	– –	(36-37)
	– –	(38-39)
A.3. Does your agency have written guidelines for filing a charge of forcible rape?		
☐ Yes (Please send a copy)	–	(40)
☐ No		
A.4. Is there more than one degree of rape that can be charged in your jurisdiction?		
☐ Yes	–	(41)
☐ No		

What are the degrees of rape? What are their essential elements?

Degrees	Essential Elements		
		–/– –	(42/43-)
		–/– –	(45/46-)
		–/– –	(48/49-)
		–/– –	(51/52-)

36

Coding — Columns

A.5. What are the lesser offenses that are frequently charged (including attempted rape) when a forcible rape is presented to your office? What are the essential elements?

Offense	Essential Elements

—/— — (54/55-)

—/— — (57/58-)

—/— — (60/61-)

A.6. In some cases the offender's acts may constitute one or more offenses other than forcible rape. We would like to know how your office charges these multiple offenses.

a) Considering cases presented to you in which evidence would support prosecution of a rape and a property crime, (rape-burglary, rape-robbery), in what percentage does your office generally file charges for:

(OR)

	Estimate (0 — 50 — 100)	Actual	
both crimes			— —/— — (63-/65-)
rape only			— —/— — (67-/69-)
property crime only			— —/— — (71-/73-)

b) Under what conditions does your office generally file charges for the property crime only?

_____ — — (75-76)

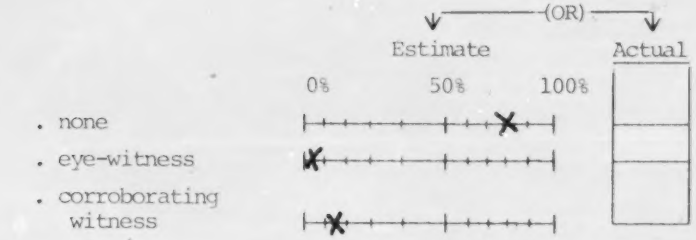
_____

_____

_____

37

	Coding	Columns
A.7. For each of the following categories within the factors (letters a through x), please estimate the percentages for cases in which some form of accusatory pleading for forcible rape was filed in your office within the last year. If your agency collects statistics on each category, please indicate that by putting the actual percentages in the right hand columns.		
EXAMPLE:		
t. Witnesses to the offense.	EXAMPLE	



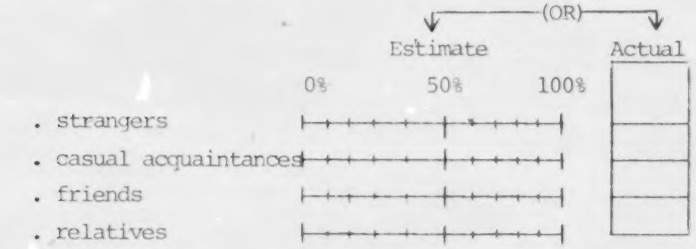
In this case, actual statistics were not available, but it is estimated that 80% of the rapes involve no witness, 5% involve eye-witnesses and 15% involve corroborating witnesses. If actual statistics were kept, the percentage would be entered in the column marked "actual" and no check marks would be made.

0 2 (1-2)

– – – (3-5)

FACTOR

a. Relationship between victims and accused.



– –/– – (6-/8-)

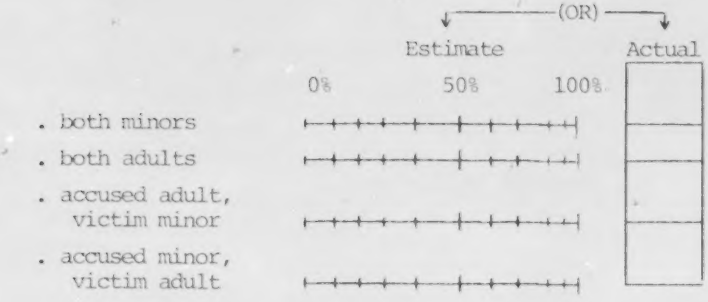
– –/– – (10-/12-)

– –/– – (14-/16-)

– –/– – (18-/20-)

Coding Columns

b. Ages of victims and accused.



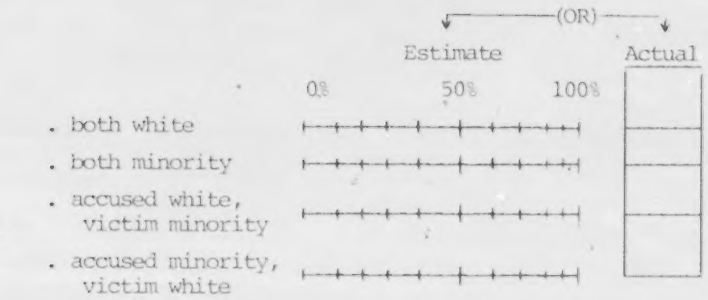
– –/– – (22-/25-)

– –/– – (26-/28-)

– –/– – (30-/32-)

– –/– – (34-/36-)

c. Race of victim and accused.



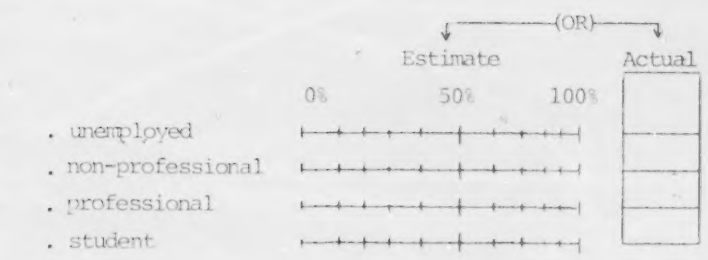
– –/– – (38-/40-)

– –/– – (42-/44-)

– –/– – (46-/48-)

– –/– – (50-/52-)

d. Occupation of the accused.



– –/– – (54-/56-)

– –/– – (58-/60-)

– –/– – (62-/64-)

– –/– – (66-/68-)

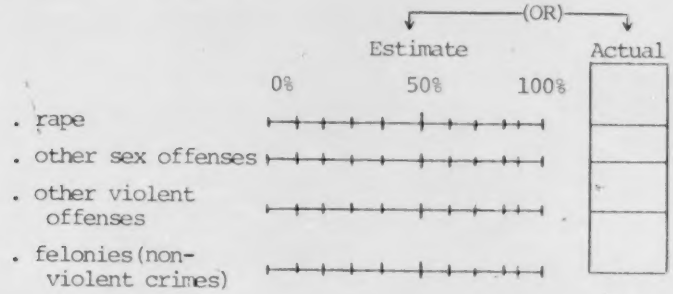
0 3 (1-2)

– – – (3-5)

39

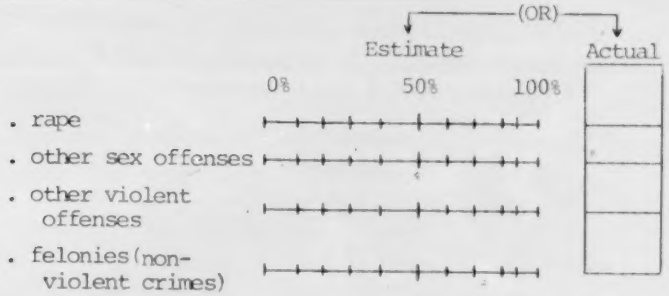
Coding Columns

e. Accused with previous arrest records for:



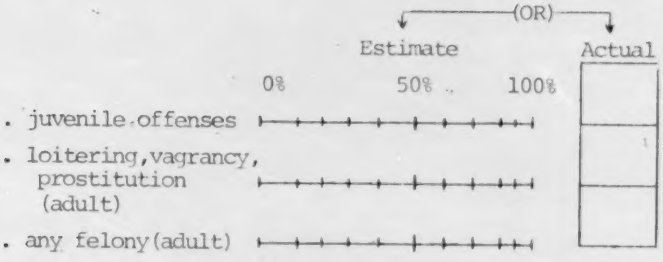
– –/– – (6-/8-)
– –/– – (10-/12-)
– –/– – (14-/16-)
– –/– – (18-/20-)

f. Accused with previous conviction records for:



– –/– – (22-/24-)
– –/– – (26-/28-)
– –/– – (30-/32-)
– –/– – (34-/36-)

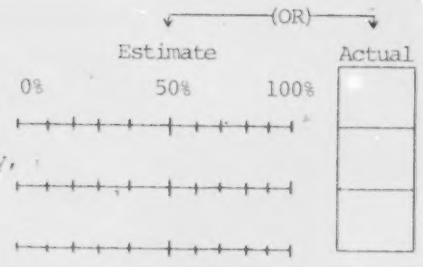
g. Victim with previous arrests for:



– –/– – (38-/40-)
– –/– – (42-/44-)
– –/– – (46-/48-)

Coding Columns

h. Victims with previous convictions for:

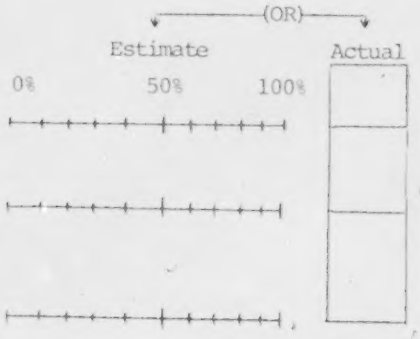


– –/– – (50–/52–)

– –/– – (54–/56–)

– –/– – (58–/60–)

i. Use of coercion against victim or others.



– –/– – (62–/64–)

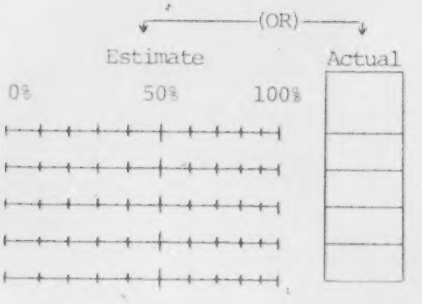
– –/– – (66–/68–)

– –/– – (70–/72–)

0 4 (1–2)

– – – (3–5)

j. Use of weapon.



– –/– – (6–/8–)

– –/– – (10–/12–)

– –/– – (14–/16–)

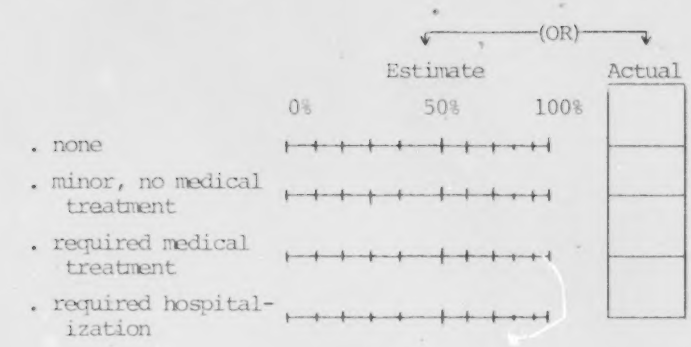
– –/– – (18–/20–)

– –/– – (22–/24–)

41

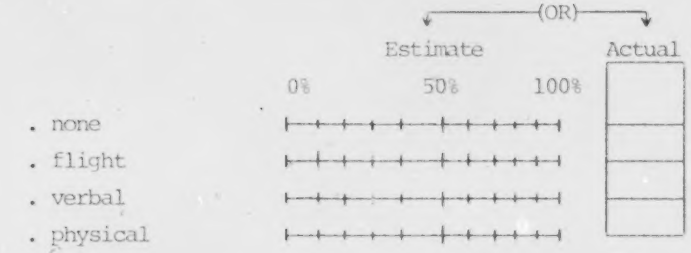
Coding Columns

k. Injuries to the victim.



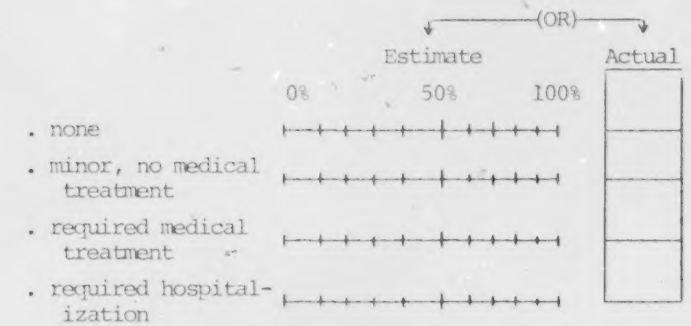
– –/– – (26-/28-)
– –/– – (30-/32-)
– –/– – (34-/36-)
– –/– – (38-/40-)

l. Resistance offered by victim. .



– –/– – (42-/44-)
– –/– – (46-/48-)
– –/– – (50-/52-)
– –/– – (54-/56-)

m. Injuries to victims when physical resistance is offered.

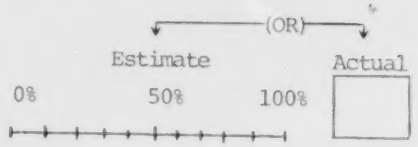
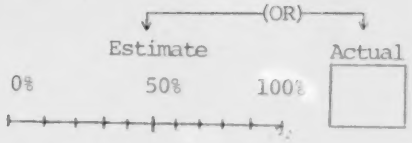
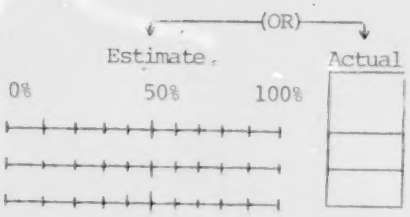
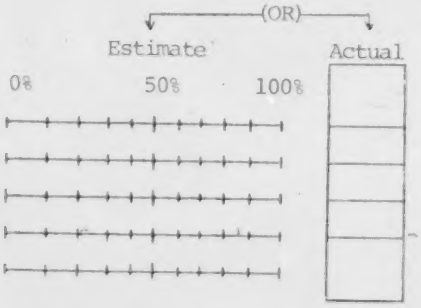


– –/– – (58-/60-)
– –/– – (62-/64-)
– –/– – (66-/68-)
– –/– – (70-/72-)

0 5 (1-2)

– – – (3-5)

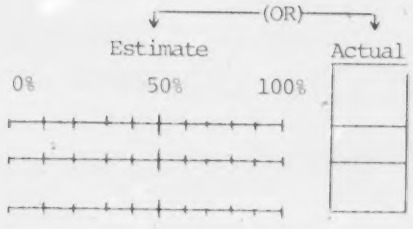
42

	Coding Columns
n. Physical proof of penetration detected.	
	
. yes	– –/– – (6-/8-)
o. Evidence that offense was planned.	
	
. yes	– –/– – (10-/12-)
p. Accomplices reported.	
	
. none	– –/– – (14-/16-)
. one	– –/– – (18-/20-)
. more than one	– –/– – (22-/24-)
q. Sexual acts in addition to vaginal intercourse.	
	
. none	– –/– – (26-/28-)
. oral only	– –/– – (30-/32-)
. anal only	– –/– – (34-/36-)
. oral and anal	– –/– – (38-/40-)
. other	– –/– – (42-/44-)

	Coding Columns
r. Multiple offenses charged.	
(OR) Estimate / Actual; 0% 50% 100%	
. yes	- -/- - (46-/48-)
s. Circumstances of contact between victim and accused prior to offense.	
(OR) Estimate / Actual; 0% 50% 100%	
. hitchhiking	- -/- - (50-/52-)
. with victim's agreement other than hitch-hiking	- -/- - (54-/56-)
. not with victim's agreement	- -/- - (58-/60-)
t. Alcohol or other drug involvement.	
(OR) Estimate / Actual; 0% 50% 100%	
. none	- -/- - (62-/64-)
. consumed by accused and victim	- -/- - (66-/68-)
. consumed by accused	- -/- - (70-/72-)
. consumed by victim	- -/- - (74-/76-)
	0 6 (1-2)
	- - - (3-5)

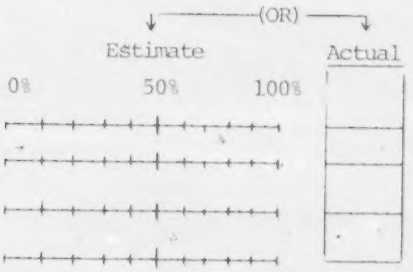
Coding Columns

u. Reported witnesses to the offenses.



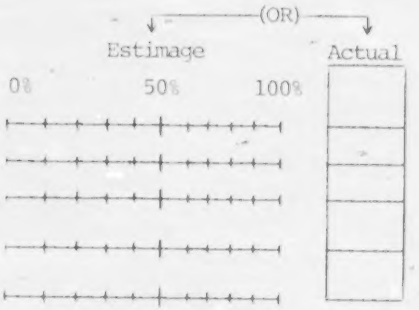
	Coding Columns
. none	- -/- - (6-/8-)
. eyewitnesses	- -/- - (10-/12-)
. corroborating witnesses	- -/- - (14-/16-)

v. Promptness of report to police.



	Coding Columns
. within one hour	- -/- - (18-/20-)
. within one day	- -/- - (22-/24-)
. one day to one week	- -/- - (26-/28-)
. after one week	- -/- - (30-/32-)

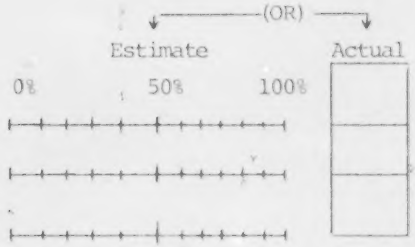
w. Location of offenses.



	Coding Columns
. outdoors	- -/- - (34-/36-)
. motor vehicles	- -/- - (38-/40-)
. victim's residence	- -/- - (42-/44-)
. residence of accused	- -/- - (46-/48-)
. other	- -/- - (50-/52-)

Coding Columns

y. Extent of identification of accused.



	Coding Columns
. accused name	- -/- - (54-/56-)
. victim able to identify	- -/- - (58-/60-)
. identification by means other than witness	- -/- - (62-/64-)

	Coding	Columns
A.8. The decision to file charges for forcible rape or some lesser charge in a given case is based on the presence or absence of a number of factors. Of the factors listed below, which eight *8) do you consider to be the most important in the determination to file charges? Indicate your choices by marking an "X" in the boses which correspond to the factors listed below. The factors could affect the decision either positively or negatively. (Mark 8.)	0 7	
	- -	(3-5)
☐ Suspect's previous record	-	(6)
☐ Relationship between victim and suspect	-	(7)
☐ Age of victim and suspect	-	(8)
☐ Race of victim and suspect	-	(9)
☐ Use of physical force	-	(10)
☐ Use of weapon	-	(11)
☐ Occupation of suspect	-	(12)
☐ Victim's previous arrest history	-	(13)
☐ Injury to victim	-	(14)
☐ Resistance offered by victim	-	(15)
☐ Proof of penetration	-	(16)
☐ Accomplices	-	(17)
☐ Sexual acts other than intercourse	-	(18)
☐ Circumstances of initial contact	-	(19)
☐ Alcohol or drug involvement	-	(20)
☐ Witnesses	-	(21)
☐ Promptness of reporting	-	(22)
☐ Location of offense	-	(23)
☐ Extent of suspect identification	-	(24)
☐ Other (specify): _____	-	(25)
_____		

	Coding	Columns

A.9. What percentage of persons charged with forcible rape were given or not given pre-trial release under the following conditions, in 1974:

(OR)

	Estimate 0% 50% 100%	Actual	Coding	Columns
. not a bondable offense	⊢+-+-+-+-+-+-+-+-+-+-⊣		– –/– –	(26-/28-)
. bond denied under discretionary authority	⊢+-+-+-+-+-+-+-+-+-+-⊣		– –/– –	(30-/32-)
. bond granted under discretionary authority but defendent unable to post	⊢+-+-+-+-+-+-+-+-+-+-⊣		– –/– –	(34-/36-)
. posted bond	⊢+-+-+-+-+-+-+-+-+-+-⊣		– –/– –	(38-/40-)
. released on recognizance	⊢+-+-+-+-+-+-+-+-+-+-⊣		– –/– –	(42-/44-)

A.10. When bond is permitted, what is the average amount?

$_____ – – – (46-48)

Do you consider this amount to be: – (49)

- ☐ Too high?
- ☐ About right?
- ☐ Too low?

48

	Coding	Columns
A.11. Is there a grand jury in your jurisdiction?		
☐ Yes	–	(50)
☐ No		
a) What percentage of forcible rape cases are presented to the grand jury?		
☐ 100%	–	(51)
☐ 75 - 90% / ☐ 50 - 75% / ☐ 25 - 50% / ☐ 0 - 25% — What alternative charging procedures are used? _____ _____ _____ _____	– –	(52-53)
b) What percentage of forcible rape cases that were presented for grand jury resulted in indictments?		
☐ 75 - 100%	–	(54)
☐ 50 - 75%		
☐ 25 - 50%		
☐ 0 - 25%		

Coding Columns

B. PROSECUTORIAL PROCEDURES

B.1. How many prosecutors are in the criminal division of your office?

_____number of prosecutors — — — (55-57)

B.2. Does your office have a special complaint prosecutor or group of prosecutors to review felony cases?

☐ Yes — (58)
☐ No

→ How many prosecutors are so assigned?

_____number of complaint prosecutors — — (59-60)

B.3. Is there a special prosecutor or group of prosecutors responsible for the prosecution of rape?

☐ Yes — (61)
☐ No

→ a) How many prosecutors handle rape cases?

_____number of male prosecutors — — (62-63)
_____number of female prosecutors — — (64-65)

b) Do the prosecutors who handle rape cases deal with other types of cases?

☐ Yes — (66)
☐ No

→ What do these other cases include? — (67)
☐ other sexual assault cases
☐ other assault cases
☐ other non-assault cases
☐ any other criminal cases

→ c) Who prosecutes rape cases in your office? — (68)
☐ All prosecutors handle them equally
☐ All prosecutors handle them, but some do more than others
☐ Particular prosecutors handle all rape cases, but they are not a special unit

	Coding	Columns
B.4. Does your office have its own investigators?		
☐ Yes	–	(69)
☐ No		
a) How many investigators does your office have?		
_____ number of male investigators	– –	(70-71)
_____ number of female investigators	– –	(72-73)
b) Do you have investigators who are primarily responsible for rape investigation?		
☐ Yes	– +	(74)
☐ No		
	0 8	(1-2)
	– – –	(3-5)

	Coding	Columns
B.5. How would you rate the degree of cooperation between your agency and the local law enforcement agencies in dealing with rape cases?		
☐ Excellent	–	(6)
☐ Acceptable		
☐ Needs improvement		
a) What is the most important reason for the excellent cooperation?		
☐ Special rape units in the local law enforcement agencies	–	(7)
☐ Use of liaison person		
☐ Written guidelines for filing cases		
☐ Increased understanding of rape issues in your agency		
☐ Increased understanding of rape issues in law enforcement agencies		
☐ Other(specify): _____		
b) How could cooperation best be improved?		
☐ Use of liaison person	–	(8)
☐ Written guidelines for filing cases	–	(9)
☐ Establish a special rape unit in your agency	–	(10)
☐ Establish a special rape unit in the law enforcement agencies	–	(11)
☐ Increase understanding of rape issues in your agency	–	(12)
☐ Increase understanding of rape issues in the law enforcement agency	–	(13)
☐ Other(specify): _____	–	(14)

Coding Columns

C. VICTIMS-WITNESSES

C.1. Does your agency have any special written guidelines for interviewing victims of rape?

☐ Yes (please include a copy) — (15)

☐ No

C.2. What general procedures does your office follow in conducting interviews with rape victims? Consider the following questions:

When does the most intensive interviewing usually take place? — (16)

☐ Prior to filing accusatory pleading

☐ At time of filing accusatory pleading

☐ At initial court hearing

☐ At time of indictment by grand jury

☐ Other (specify): _____

_____

C.3. Who is usually present at the interview other than the prosecutor and the victim? — (17)

☐ No one else is present

☐ Another prosecutor or investigator

☐ A family member or friend of victim

☐ Victim advocate

☐ Other (specify): _____

C.4. Is it the policy of your office to request the rape victim to take a polygraph examination? — (18)

☐ In most circumstances

☐ Sometimes

☐ Never

☐ Polygraph not available

Under what circumstances is it used? — — (19-20)

_____

_____

_____

_____

_____

53

	Coding	Columns
C.5. How many times are victims usually interviewed by your office prior to trial?		
☐ Once	–	(21)
☐ Twice		
☐ More than twice		
C.6. Does your office have a written description of trial procedures for victims and witnesses of crime?		
☐ No	–	(22)
☐ Yes, for all victims and witnesses (please include a copy)		
☐ Yes, a special description for victims and witnesses of rape (please include a copy)		
C.7. Approximately what percentage of victims who report a rape withdraw the complaint after a suspect was charged?		
☐ More than 50%	–	(23)
☐ 25% - 50%		
☐ 10% - 25%		
☐ Less than 10%		
What are the major reasons for withdrawal of these complaints?		
1. _____	– –	(24-25)
_____		
2. _____	– –	(26-27)
_____		
3. _____	– –	(28-29)
_____		

	Coding	Columns
C.8. Are special medical and forensic services available for rape victims in your jurisdiction?		
☐ Yes	–	(30)
☐ No		
a) Are the services available 24 hours a day?	–	(31)
☐ Yes		
☐ No		
b) Where are the services located?	–	(32)
☐ Hospital or clinic		
☐ Rape crisis center		
☐ Private physician(s)		
☐ Other (specify): _____		
c) Is a physician immediately available?	–	(33)
☐ Always		
☐ Generally		
☐ Sometimes		
☐ Rarely		
d) Who usually takes the victim for medical and forensic services?	–	(34)
☐ Police officer taking initial report		
☐ Specially designated police officer		
☐ Counselor from a rape crisis center		
☐ Don't know		
☐ Other (specify): _____		
e) Do you feel that specially designated medical and forensic services for rape victims would be useful to you in your jurisdiction?	–	(35)
☐ Yes		
☐ No		
f) Are such services planned in your jurisdiction?	–	(36)
☐ Yes		
☐ No		

55

	Coding	Columns
C.9. Are special counseling services available for rape victims in your jurisdiction?		
☐ Yes	–	(37)
☐ No		
a) What is the name of the group providing primary services? _____ _____	– –	(38-39)
b) Are the services available 24 hours a day? ☐ Yes ☐ No	–	(40)
c) Who staffs these services? ☐ Specially trained volunteers/paraprofessionals ☐ Professionals (psychologists, social workers, etc.) ☐ Combination of professionals and specially trained persons	–	(41)
d) Is there a cooperative relationship between the agency that provides these services and your department? ☐ Very cooperative ☐ Somewhat cooperative ☐ Not cooperative	–	(42)
e) How do you feel counseling services should be provided for rape victims? ☐ Law enforcement agency should provide them ☐ There should be a hospital-based program ☐ Professionals (psychologists, social workers, etc.) ☐ An agency staffed by specially trained volunteers should be developed ☐ Other (specify): _____ _____ _____	–	(43)

Coding Columns

D. TRIAL PROCEDURES

D.1. Please mark the level at which corroboration is required for each of the following elements of forcible rape with a check in the appropriate box.

	Required by Statute	Required by Judicial Decision	Useful in Building a Strong Case	Indispensible to Building a Strong Case	
Identity of the accused					— (44)
Penetration					— (45)
Force or coercion					— (46)
Resistance					— (47)
Lack of consent					— (48)

57

Coding Columns

D.2. For those elements in which corroboration is required, what types of evidence are acceptable?

	Physical (Including Medical Exam)	Testimonial	Circumstantial		
Identity of the accused				— — —	(49-51)
Penetration				— — —	(52-54)
Force or coercion				— —	(55-57)
Resistance				— — — —	(58-60)
Lack of consent				— — —	(61-63)

58

	Coding	Columns
D.3. Does your jurisdiction have a required cautionary jury instruction for rape cases? (e.g., in California, juries are instructed that the charge of rape is easily made and difficult to defend against, and that they should therefore view the testimony of the victim with caution.)		
☐ Yes	–	(64)
☐ No		
a) How is the instruction required?		
☐ By statute	–	(65)
☐ By judicial decision		
b) In which cases is the instruction given?		
☐ All	–	(66)
☐ Selected		
In which circumstances?		
1. ___	– –	(67-68)
2. ___	– –	(69-70)
3. ___	– –	(71-72)
c) When the instruction is given, what level of impact does it have on the prosecution's case?		
☐ None	–	(73)
☐ Slight		
☐ Some		
☐ Considerable		
	0 9	(1-2)
	– – –	(3-5)

Coding Columns

D.4. To what degree is the victim's history of sexual conduct with the defendant, or others, admissible in court when the defense is consent? — (6)

- ☐ Prohibited by statute
- ☐ Prohibited by judicial decision
- ☐ Admissible by statute
- ☐ Admissible by judicial decision

a) Is the admissibility of evidence concerning the victim's history of sexual conduct limited in any way? — (7)

- ☐ Yes
- ☐ No

In what ways is it limited? — (8)

- ☐ Only in relation to defendant
- ☐ Only to a recent time period
- ☐ Discretionary after in camera hearing
- ☐ Other _____

b) What impact do you think the admissibility of evidence concerning the victim's sexual conduct has on the prosecution of a rape case?

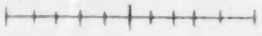
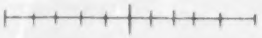
In a jury trial: — (9)

- ☐ None
- ☐ Slight
- ☐ Some
- ☐ Considerable

In a court trial: — (10)

- ☐ None
- ☐ Slight
- ☐ Some
- ☐ Considerable

60

	Coding	Columns
D.5. In what percentage of rape cases handled by your office is plea bargaining used?		
0% 50% 100%		
. plea bargaining used 	--	(11-12)
D.6. In what percentage of rape cases handled by your office do you think plea bargaining was appropriate?		
0% 50% 100%		
. plea bargaining appropriate 	--	(13-14)
D.7. Which of these statements best describes your opinion of the plea bargaining system in your jurisdiction? (Mark one.)		
☐ It's fine the way it is.	-	(15)
Why? _____	--	(16-17)
_____		
_____		
_____		
☐ It should be retained but changed.	-	(18)
How? _____	--	(19-20)
_____		
_____		
_____		
☐ It should be eliminated altogether.	-	(21)
Why? _____	--	(22-23)
_____		
_____		
_____		

61

	Coding	Columns

E. RAPE CONVICTIONS

E.1. The absence or presenct of which eitht (8) factors would you consider to be most important in obtaining a conviction for forcible rape? Indicate your choices by placing an "X" in the boxes which correspond to the factors listed below. The factors could affect the decision either positively or negatively. (Mark 8.)

☐ Suspect's previous record	–	(24)
☐ Relationship between victim and suspect	–	(25)
☐ Age of victim and suspect	–	(26)
☐ Race of victim and suspect	–	(27)
☐ Use of physical force	–	(28)
☐ Use of weapon	–	(29)
☐ Occupation of suspect	–	(30)
☐ Victim's previous arrest history	–	(31)
☐ Injury to victim	–	(32)
☐ Resistance offered by victim	–	(33)
☐ Proof of penetration	–	(34)
☐ Accomplices	–	(35)
☐ Sexual acts other than intercourse	–	(36)
☐ Circumstances of initial contact	–	(37)
☐ Alcohol or drug involvement	–	(38)
☐ Witnesses	–	(39)
☐ Promptness of reporting	–	(40)
☐ Location of offense	–	(41)
☐ Extent of suspect identification	–	(42)
☐ Other(specify): _____	–	(43)

_____

62

	Coding	Columns
E.2. What is the criminal penalty for forcible rape in your jurisdiction?		
☐ Maximum of death penalty for rape	–	(44)
☐ Minimum _____ Maximum _____ Years in state prison	– –	(45-46)
☐ Alternate felony/misdemeanor	– –	(47-48)
☐ Indeterminate sentence		
E.3. What is the average sentence actually imposed?	– –	(49-50)
_____	– –	(51-52)
E.4. Do you feel that the average sentence imposed is appropriate?		
☐ Yes	–	(53)
☐ No		
Why or why not? _____	– –	(54-55)
_____	– –	(56-57)
_____		
_____		
E.5. What are the two major difficulties you find in getting juries to convict for forcible rape? (Mark two.)		
☐ Penalties are too severe	–	(58)
☐ There is not a large enough range of penalties	–	(59)
☐ Corroboration requirements are too strict		
☐ The credibility of the victim		
☐ The presentation of the case is limited by resources available to your office		
☐ Other (specify): _____		
_____		
E.6. Does your jurisdiction have a statutory requirement that convicted rapists register as sex offenders?		
☐ Yes	–	(60)
☐ No		
→ Do you feel that the registration statute has had a positive impact on controlling the problem of forcible rape?		
☐ None	–	(61)
☐ Slight impact		
☐ Some impact		
☐ Considerable impact		

63

	Coding	Columns
E.7. Does your jurisdiction have a special medical-psychological program for sex offenders (which includes rapists) as an alternative to or in addition to incarceration?		
☐ Yes ☐ No	–	(62)
a) Please give a brief description of it. _____		
b) Estimate the percentage of usage of such a program for convicted rapists.	–	(63)
☐ 75 - 100% ☐ 50 - 75% ☐ 25 - 50% ☐ Less than 25%		
c) Under what circumstances is it used?		
1. _____	– –	(64-65)
2. _____	– –	(66-67)
3. _____	– –	(68-69)
d) Who is usually responsible for the recommendation recommendation?		
☐ Defendent ☐ Defense attorney ☐ Pre-sentence unit ☐ Prosecutor ☐ Medical personnel ☐ Correctional authorities ☐ Other (specify): _____	–	(70)
	1 0	(1-2)
	– – –	(3-5)

	Coding	Columns
F. INNOVATIONS		
F.1. Have any special studies of rape been conducted in your jurisdiction in the last three years?	–	(6)
☐ Yes		
☐ No		
a) Were any conducted by your agency?	–	(7)
☐ Yes (please send us a report)		
☐ No		
b) Were any conducted by people outside your agency?	–	(8)
☐ Yes		
☐ No		
What elements of the problem do the studies cover? (Mark all relevant).		
☐ Prevention	–	(9)
☐ Offenders	–	(10)
☐ Victims	–	(11)
☐ Police	–	(12)
☐ Prosecution (pre-trial)	–	(13)
☐ Trial procedures	–	(14)
Whom may we contact to obtain a report? _____		
_____		

	Coding	Columns
F.2. Has your agency changed its procedures in dealing with rape offenses in the last three years?		
☐ Yes	–	(15)
☐ No		
Which of these elements does the change include? (Mark all relevant.)		
☐ Special rape unit	–	(16)
☐ Use of female investigators	–	(17)
☐ Use of female deputies	–	(18)
☐ Special training	–	(19)
☐ Better forensic resources	–	(20)
☐ New investigative techniques	–	(21)
What are they? _____	– –	(22-23)
_____		
_____		
☐ Other (specify): _____	–	(24)
_____		
_____		
F.3. Does your agency have any plans for changing procedures in dealing with rape cases in the near future?		
☐ Yes	–	(25)
☐ No		
Which of these elements will the change include?		
☐ Special rape unit	–	(26)
☐ Use of female deputies	–	(27)
☐ Use of female investigators	–	(28)
☐ Special training	–	(29)
☐ Better forensic resources	–	(30)
☐ New investigative techniques	–	(31)
What are they? _____	– –	(32-33)
_____		
_____		
☐ Other (specify): _____	–	(34)
_____		
_____		

	Coding	Columns
F.4. Do members of your office receive special training covering the problem of forcible rape?		
☐ Yes	–	(35)
☐ No		
a) Which of these aspects does the training include: (Mark all relevant.)		
☐ Special evidence requirements for rape cases	–	(36)
☐ Interviewing the rape victim	–	(37)
☐ Dealing with victim's family/friends	–	(38)
☐ Referral services for victims	–	(39)
☐ Characteristics of offenders	–	(40)
☐ Rape as a social problem	–	(41)
☐ Other(specify): _____	–	(42)
b) Who participates in teaching the course? (Name all relevant.)		
☐ Police officer	–	(43)
☐ Behavioral scientist	–	(44)
☐ Rape counselor	–	(45)
☐ Victim	–	(46)
☐ Prosecutor	–	(47)
☐ Medical person	–	(48)
☐ Other(specify): _____	–	(49)
c) How many hours are devoted to in-service training in handling rape and sexual assault cases? _____	– –	(50-51)
d) What percentage of the deputies in your office have had special training on rape?		
☐ 100%	–	(52)
☐ More than 75%		
☐ 50% - 75%		
☐ 25% - 50%		
☐ Less than 25%		
e) Who receives training in rape in your office?		
☐ Mandatory for all deputies	–	(53)
☐ As many deputies as possible		
☐ Investigators only		
☐ Special rape unit only		
☐ Volunteers		

	Coding	Columns
F.5. Has the incidence of reported forcible rape increased in your jurisdiction in the last few years?		
☐ Yes	–	(54)
☐ No		
What are the three most important reasons for this increase? (Mark 3.)		
1. ☐ Sexual permissiveness	–	(55)
2. ☐ More reporting because of increased convictions	–	(56)
3. ☐ Change in legislation	–	(57)
4. ☐ General increase in violence	–	(58)
5. ☐ More reporting because of increased sensitivity of criminal justice system	–	(59)
6. ☐ Influence of pornography	–	(60)
7. ☐ Women's liberation	–	(61)
8. ☐ More reporting because of a change in public attitude toward rape	–	(62)
9. ☐ Racial tensions	–	(63)
10. ☐ Other (specify): _____	–	(64)
F.6. What do you consider to be the three (3) most important things that need to be improved in dealing with the problem of forcible rape? (Mark three.)		
☐ Victim services	–	(65)
☐ Legal reform	–	(66)
☐ Sentencing	–	(67)
☐ Police investigative techniques	–	(68)
☐ Prosecution policies	–	(69)
☐ Treatment and rehabilitation of offenders	–	(70)
☐ Public education	–	(71)
☐ Police training	–	(72)

	Coding	Columns
F.7. What is the most important change in the rape laws that you would like to see? (Include rules of evidence, sentencing, release, etc.)		
_____	--	(73-74)
_____	--	(75-76)
_____	--	(77-78)
_____	--	(79-80)
_____		
_____		
_____		
_____		

69

Please use the special envelope which has been provided to return this questionnaire and all of the items you have marked below.

Item	Page Reference	Question Number	Check One: Enclosed	Check One: Not Available
Written guidelines for filing a charge of forcible rape	2	A.3.		
Written guidelines for interviewing victims of rape	19	C.1.		
Written description of trial procedures for victims and witnesses	20	C.6.		
Reports from any special studies of rape	31	F.1.		
Any other material you think might help us				

Thank you very much for your patient cooperation.

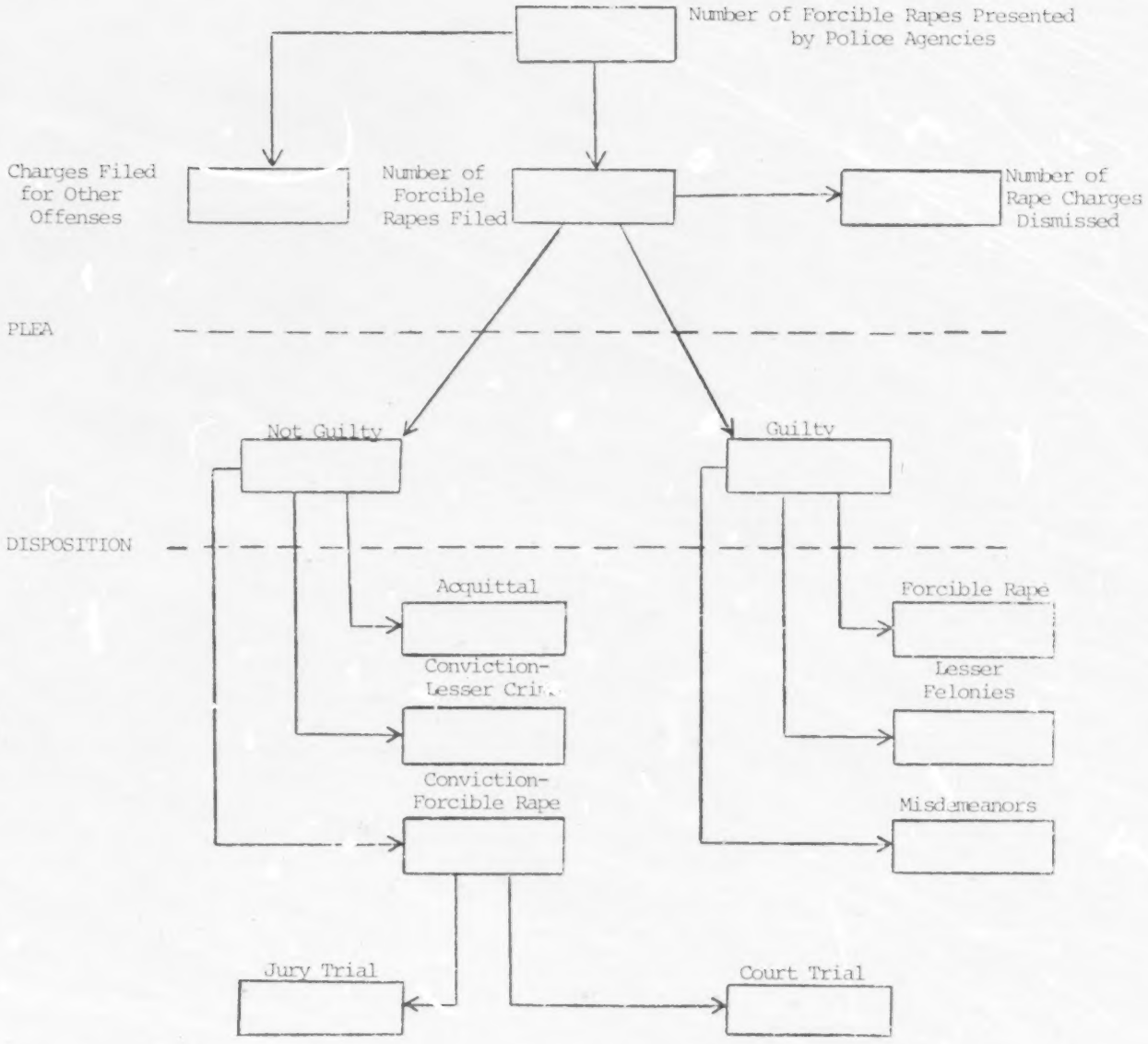
PART II - STATISTICAL SECTION

On the following three pages are diagrams representing the flow of rape cases through the criminal justice system. On each page please fill in the data that you can from your records.

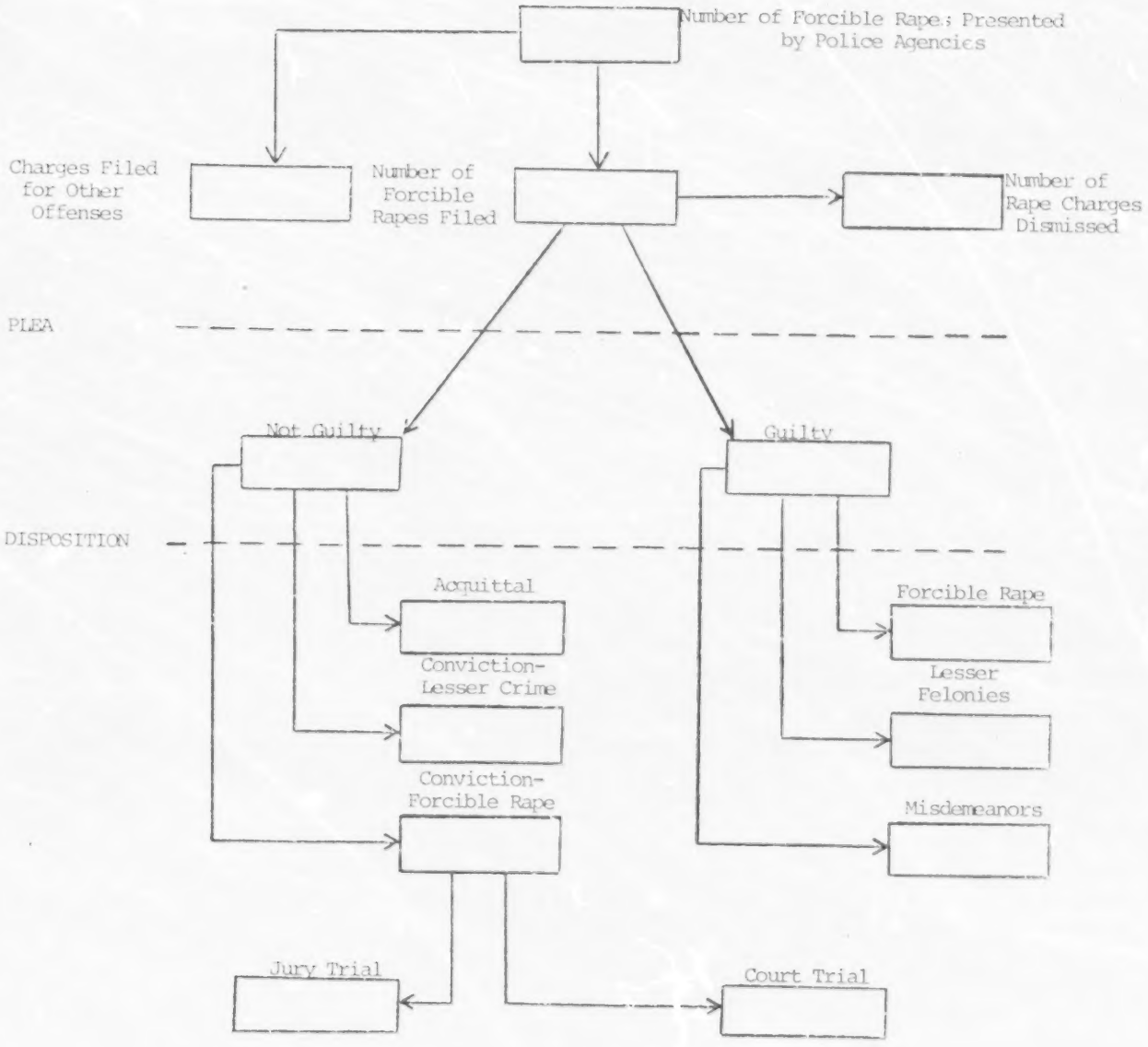
In the interest of uniformity, we request that the following definigion of rape be utilized in recording data in the flow diagrams:

HETEROSEXUAL NON-CONSENSUAL SEXUAL INTERCOURSE, INCLUDING ORAL AND ANAL INTERCOURSE, BUT EXCLUDING INCEST AND THE STATUTORY RAPE OF A MINOR.

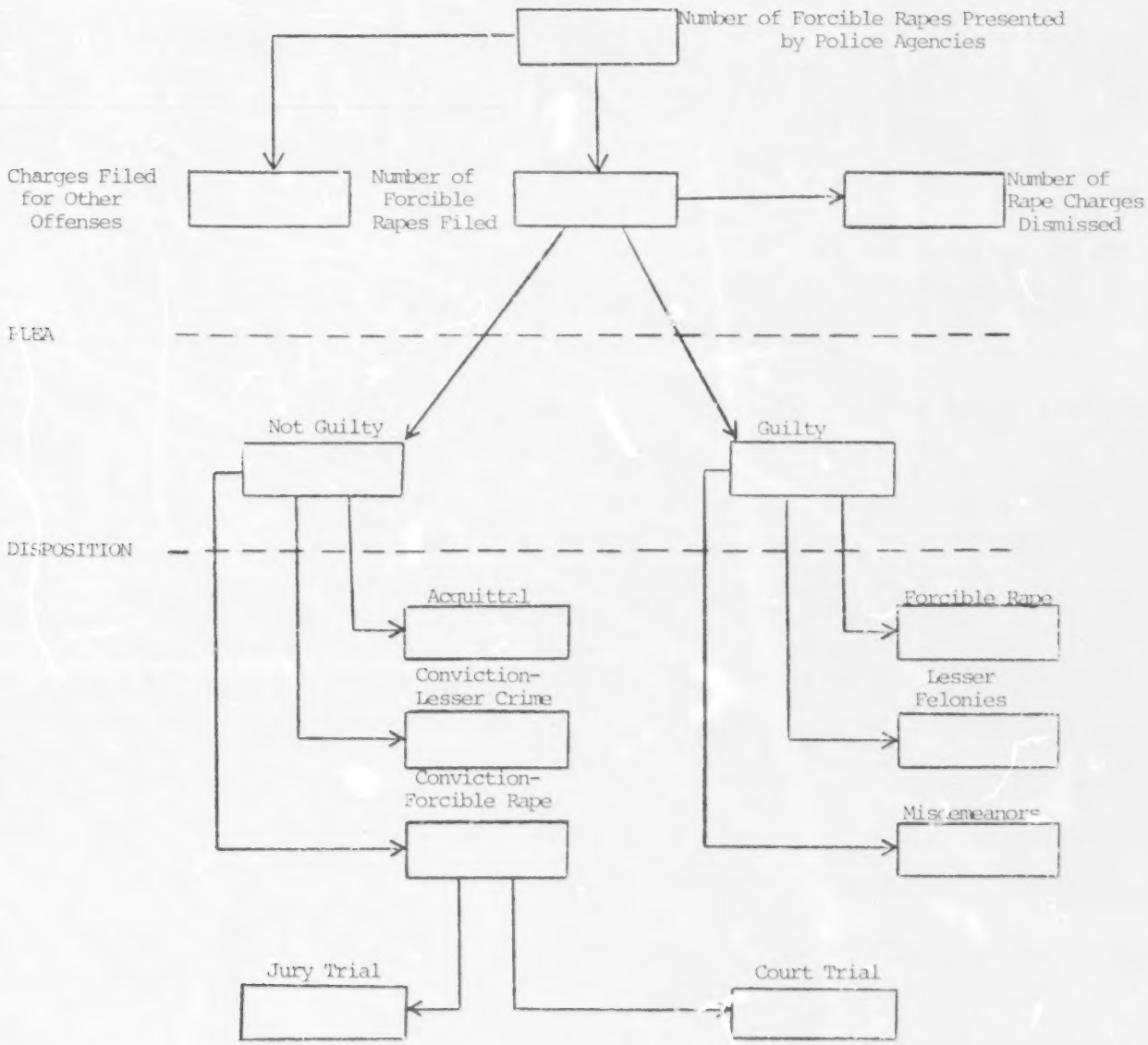
1974


Number of Forcible Rapes Presented by Police Agencies
Charges Filed for Other Offenses
Number of Forcible Rapes Filed
Number of Rape Charges Dismissed
PLEA
Not Guilty
Guilty
DISPOSITION
Acquittal
Forcible Rape
Conviction-Lesser Cri..
Lesser Felonies
Conviction-Forcible Rape
Misdemeanors
Jury Trial
Court Trial

72


Number of Forcible Rapes Presented by Police Agencies
Charges Filed for Other Offenses
Number of Forcible Rapes Filed
Number of Rape Charges Dismissed
PLEA
Not Guilty
Guilty
DISPOSITION
Acquittal
Forcible Rape
Conviction-Lesser Crime
Lesser Felonies
Conviction-Forcible Rape
Misdemeanors
Jury Trial
Court Trial

1972


Number of Forcible Rapes Presented by Police Agencies
Charges Filed for Other Offenses
Number of Forcible Rapes Filed
Number of Rape Charges Dismissed
PLEA
Not Guilty
Guilty
DISPOSITION
Acquittal
Forcible Rape
Conviction-Lesser Crime
Lesser Felonies
Conviction-Forcible Rape
Misdemeanors
Jury Trial
Court Trial

74

APPENDIX B

PROSECUTOR SURVEY RESPONDENTS

PROSECUTOR SURVEY RESPONDENTS

Counties With Population of 1,000,000 or More

1. Alameda County, California
2. San Diego County, California
3. Cook County, Illinois
4. Middlesex County, Massachusetts
5. Wayne County, Michigan
6. Hennepin County, Minnesota
7. Bronx County, New York
8. Kings County, New York
9. Nassau County, New York
10. New York County, New York
11. Queens County, New York
12. Philadelphia County, Pennsylvania
13. Dallas County, Texas
14. Harris County, Texas
15. Milwaukee County, Wisconsin

Counties With Populations of 100,000 to 1,000,000

1. Mobile County, Alabama
2. Montgomery County, Alabama
3. Pima County, Arizona
4. Pulaska County, Arkansas
5. Contra Costa County, California
6. Fresno County, California
7. Sacramento County, California
8. San Bernardino County, California
9. San Joaquin County, California
10. San Luis Obispo County, California
11. San Mateo County, California
12. Santa Barabara County, California
13. Stanislaus County, California
14. Tulane County, California
15. Ventura County, California
16. Arapahoe County, Colorado
17. Denver County, Colorado
18. Jefferson County, Colorado
19. Hartford County, Connecticut
20. Brevard County, Florida
21. Leon County, Florida
22. Pinellas County, Florida
23. Cobb County, Georgia
24. DeKalb County, Georgia
25. Honolulu County, Hawaii
26. Kane County, Illinois
27. Lake County, Illinois
28. Madison County, Illinois
29. Elkhart County, Indiana
30. Marion County, Indiana
31. Polk County, Iowa
32. Sedgwick County, Kansas
33. Wyandotte County, Kansas
34. Fayette County, Kansas
35. Kenton County, Kentucky
36. Caddo County, Louisiana
37. Orleans County, Louisiana
38. Rapides County, Louisiana
39. Anne Arundel County, Maryland
40. Montgomery County, Maryland
41. Essex County, Massachusetts
42. Plymouth County, Massachusetts
43. Berrien County, Michigan
44. Genessee County, Michigan
45. Jackson County, Michigan
46. Monroe County, Michigan
47. Oakland County, Michigan
48. Anoka County, Minnesota
49. Ramsey County, Minnesota
50. St. Louis County, Minnesota
51. Greene County, Missouri
52. Clark County, Nevada
53. Washoe County, Nevada
54. Atlantic County, New Jersey
55. Burlington County, New Jersey
56. Cumberland County, New Jersey
57. Essex County, New Jersey
58. Middlesex County, New Jersey
59. Morris County, New Jersey
60. Somerset County, New Jersey
61. Union County, New Jersey
62. Broome County, New York

63. Oneida County, New York
64. Oswego County, New York
65. Rensselaer County, New York
66. Richmond County, New York
67. Ulster County, New York
68. Walee County, North Carolina
69. Allen County, Ohio
70. Franklin County, Ohio
71. Licking County, Ohio
72. Stark County, Ohio
73. Summit County, Ohio
74. Trumball County, Ohio
75. Comanache County, Oklahoma
76. Oklahoma County, Oklahoma
77. Tulsa County, Oklhoma
78. Multnomah County, Oregon
79. Allegheny County, Pennsylvania
80. Bucks County, Pennsylvania
81. Erie County, Pennsylvania
82. Lackawanna County, Pennsylvania
83. Lancaster County, Pennsylvania
84. Lawrence County, Pennsylvania
85. Luzerene County, Pennsylvania
86. Providence County, Rhode Island
87. Charleston County, South Carolina
88. Hamilton County, Tennessee
89. Shelby County, Tennessee
90. Bell County, Texas
91. Bexar County, Texas
92. El Paso County, Texas
93. Tarrant County, Texas
94. Salt Lake City, Utah
95. Utah County, Utah
96. Richmond County, Virginia
97. Kitsap County, Washington
98. Yakima County, Washington
99. Dane County, Wisconsin
100. Outagamie County, Wisconsin
101. Winnebago County, Wisconsin

Counties With Populations of 25,000 to 100,000

1. Houston County, Alabama
2. Apache County, Arizona
3. Yuma County, Arizona
4. Larimer County, Colorado
5. Weld County, Colorado
6. St. Johns County, Florida
7. Dougherty County, Georgia
8. Whitfield County, Georgia
9. Maui County, Hawaii
10. Canyon County, Idaho
11. DeKalb County, Illinois
12. Saline County, Illinois
13. Vermillon County, Illinois
14. Riley County, Kansas
15. Acadia County, Louisiana
16. Wicomico County, Maryland
17. Marquette County, Michigan
18. Mecosta County, Michigan
19. Crow Wing County, Minnesota
20. Winona County, Minnesota
21. Warren County, Mississippi
22. Flathead County, Montana
23. Missoula County, Montana
24. Wayne County, New York
25. Geauga County, Ohio
26. LeFlore County, Oklahoma
27. Linn County, Oregon
28. Collin County, Texas
29. Hancock County, West Virginia
30. Marion County, West Virginia
31. Wayne County, West Virginia
32. Barron County, Wisconsin
33. Walworth County, Wisconsin
34. Chesterfield County, Virginia

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